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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA  
NO. 96CV-5903

WILLIAM BARNES, et al., : HIGHLY CONFIDENTIAL  
Plaintiffs, : Deposition of:  
v. : FRANCIS J. RYAN  
THE AMERICAN TOBACCO :  
COMPANY, INC., ET AL., : (Sept. 18, 1997)  
Defendants. :  
----- :

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

PHYLLIS SMALL, et al., :  
Plaintiffs, : Index No.  
v. : 110949/96  
LORILLARD TOBACCO COMPANY, : Judge Charles  
INC., et al., : E. Ramos  
Defendants. :  
----- :

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

MARY ANN HOSKINS, et al., :  
Plaintiffs, : Index No.  
v. : 110951/96  
R.J. REYNOLDS TOBACCO : Judge Charles  
COMPANY, et al., : E. Ramos  
Defendants. :  
----- :

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

SHARLENE HOBERMAN, et al., :  
Plaintiffs, : Index No.  
v. : 110953/96  
BROWN & WILLIAMSON TOBACCO : Judge Charles  
CORPORATION, et al., : E. Ramos  
Defendants. :  
----- :

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

ROSE FROSINA, et al., :  
Plaintiffs, : Index No.  
v. : 110950/96  
PHILIP MORRIS, INC., et al., : Judge Charles  
Defendants. : E. Ramos  
----- :

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

CATHERINE ZITO, et al., :  
Plaintiffs, : Index No.  
v. : 110952/96  
THE AMERICAN TOBACCO : Judge Charles  
COMPANY, INC., et al., : E. Ramos  
Defendants. :  
----- :

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TRANSCRIPT of testimony as taken by and  
before PATRICIA M. MULLIGAN, a Certified  
Shorthand Reporter and Notary Public of the  
State of New Jersey, at the offices of ARNOLD  
AND PORTER, 555 Twelfth Street, N.W.,  
Washington, D.C., on Thursday, September 18,  
1997, commencing at 10:25 in the morning.

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I N D E X

WITNESS

DIRECT

FRANK RYAN

Mr. Shub

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E X H I B I T S

NUMBER

DESCRIPTION

IDENTIFICATION

RYAN

1	Inter-office correspondence to M. Johnston from F. Ryan, dated 2/24/87	81
2	First draft of annual report to Philip Morris Board	102
3	Ryan/Dunn Alternate, third version of Board presentation	102
4	Smoker Psychology Report from Philip Morris, dated June 1973, 23 pages	108
5	Annual Smoker Psychology Report from Philip Morris, dated August 1974	114
6	Inter-office correspondence to Dr. Osdene from W.L. Dunn dated November 26, 1980	152
7	Behavioral Research Annual Report dated July 18, 1975	156
8	A studies of the Quit-smoking Campaign in Greenfield, Iowa in conjunction with the movie, Cold Turkey	177

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1 THE VIDEOGRAPHER: Good morning.

2 This is the deposition of Frank Ryan noticed by  
3 the plaintiff in Case Number 96CV-5903 entitled  
4 William Barnes, et al. versus American Tobacco  
5 Company, et al., in the U. S. District Court for  
6 the Eastern District of Pennsylvania; Case  
7 Number 110949/96 entitled Phyllis Small, et al.,  
8 versus Lorillard Tobacco Company, et al.; Case  
9 Number 110951/96 entitled Mary Ann Hoskins, et  
10 al., versus R.J. Reynolds Tobacco Company, et  
11 al.; Case Number 110953/96 entitled Charlene  
12 Hoberman, et al., versus Brown and Williamson  
13 Tobacco Corporation, et al.; Case Number  
14 110950/96 entitled Rose Frosina, et al., versus  
15 Philip Morris, Incorporated, et al.; Case Number  
16 110952/96 entitled Catherine Zito, et al.,  
17 versus The American Tobacco Company, et al. in  
18 the Supreme Court of the State of New York in  
19 the County of New York.

20 My name is Paula Adkins, and I am  
21 the legal video specialist operating equipment  
22 for the deposition. I am employed by Waga and  
23 Spinelli. This deposition is being taken on  
24 Thursday, September 18th, 1997, at the offices  
25 of Arnold and Porter at 555 Twelfth Street,

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1 Northwest, Washington, D. C., at the time  
2 indicated at the lower portion of the television  
3 screen. The time on the screen is 10:28:44. I  
4 will now ask counsel to please identify  
5 themselves and indicate the parties they  
6 represent. The court reporter, Patricia M.  
7 Mulligan, will then administer the oath to the  
8 witness.

9 MR. SHUB: Jonathan Shub  
10 representing plaintiffs in Barnes.

11 MS. BRACHTL: Martis Brachtl  
12 representing plaintiffs in Frosina and the other  
13 New York actions.

14 MR. DOLUISIO: Michael Doluisio  
15 representing Philip Morris.

16 MR. HURWITZ: Even Hurwitz from  
17 Arnold and Porter representing Philip Morris and  
18 Mr. Ryan.

19  
20  
21 F R A N C I S J. R Y A N,

22 REDACTED

23  
24 DIRECT EXAMINATION BY MR. SHUB:

25 Q. Good morning, Mr. Ryan. Is it

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1 Mr. Ryan or Doctor?

2 A. Mr., please.

3 Q. My name is Jonathan Shub, as I  
4 introduced myself on the record a moment ago.  
5 I'm here representing plaintiffs in the Barnes  
6 action here pending in the eastern district of  
7 Philadelphia. I'm here this morning to ask you  
8 a few questions about some of your activities  
9 while you were at Philip Morris. Before we get  
10 started I wanted to lay a few ground rules so we  
11 understand each other.

12 First, please indicate to me if  
13 you don't understand a question I'm asking or if  
14 you don't hear the question. I will assume that  
15 you understand my question if you respond to  
16 it.

17 Two, if you need a break at any  
18 time, allow yourself to tell your counsel or me  
19 that you want a break, and we certainly will  
20 give you that opportunity.

21 Three, you are aware, are you  
22 not, sir, that the testimony you're giving here  
23 has the same force and effect as if you were  
24 testifying in court?

25 A. I am.

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1 Q. Let me start by asking you how it  
2 is that you came to understand that you were  
3 going to be giving testimony here today.

4 A. I was subpoenaed.

5 Q. Were you anticipating receiving  
6 the subpoena? In other words, were you told  
7 ahead of time you may be subpoenaed?

8 A. Yes, I was.

9 Q. Who told you that?

10 A. A representative of Arnold and Porter.

11 Q. Was it Mr. Hurwitz?

12 A. No.

13 Q. When were you told this?

14 A. Several months ago.

15 Q. Had you ever given testimony  
16 before in a deposition?

17 A. I have.

18 Q. How many times?

19 A. Once.

20 Q. Was it related to employment at  
21 Philip Morris?

22 A. Yes.

23 Q. When was this?

24 A. A number of years ago. Perhaps seven.

25 Q. Were you employed by Philip

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1 Morris at that point?

2 A. Just a second. Eight years. Yes.

3 Q. What was the -- Do you remember  
4 what the case was about?

5 A. Yes. It was a lawsuit between two  
6 tobacco companies over an issue regarding the  
7 development of a new product.

8 Q. What product was it?

9 A. Capri.

10 Q. Who was suing who?

11 A. That I don't know.

12 Q. Why -- What was your role in the  
13 development --

14 MR. SHUB: Strike that.

15 Q. What was your understanding as to  
16 why you were giving deposition testimony?

17 A. I had tested Capri among consumers.

18 Q. That was while you were at Philip  
19 Morris.

20 A. Yes.

21 Q. Before you heard from Arnold and  
22 Porter -- Was it an attorney at Arnold and  
23 Porter?

24 A. Yes.

25 Q. Before you heard from an attorney

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1 from Arnold and Porter had you spoken with  
2 anyone at Philip Morris about giving deposition  
3 testimony?

4 A. Not in this case. No.

5 Q. What about in any cases in the  
6 last couple years?

7 A. I had been alerted by a patent attorney  
8 at Philip Morris regarding possible deposition  
9 for a second time in the case of the patents  
10 that I mentioned which regarded Capri.

11 Q. It's fair to say that case is not  
12 a case involving smoking and health.

13 A. No.

14 Q. Or smoking and addiction?

15 A. No.

16 Q. Or anything related to those kind  
17 of issues.

18 A. This was purely a technical internal  
19 tobacco-company-versus-tobacco company affair.

20 Q. So with respect to giving  
21 testimony in a case involving smoking and health  
22 or smoking and addiction by smokers or on behalf  
23 of smokers, your contact with the Arnold and  
24 Porter attorney a couple months ago was the  
25 first time you had had any involvement or a

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1 contact regarding those types of cases?

2 A. Yes.

3 Q. What did the attorney tell you?

4 A. The attorney told me that a Philadelphia  
5 law firm was conducting a class action versus  
6 the tobacco companies and that they would  
7 subpoena a number of present and retired Philip  
8 Morris employees to testify regarding whatever  
9 issues they were concerned with. That was the  
10 gist of our conversation.

11 Q. Have you been, would you say,  
12 following the -- as a general matter, the nature  
13 of litigation that's been brought against  
14 tobacco companies in the last couple years?  
15 It's been in the news fairly regularly. Do you  
16 read it?

17 A.

18 **REDACTED**

19  
20 the Washington Post or the New York Times or the  
21 Wall Street Journal might be.

22 Q. Do you read any of the papers you  
23 just mentioned at all?

24 A. Rarely. Very rarely.

25 Q. What was your next contact with

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1 lawyers that represent tobacco companies in  
2 connection with this lawsuit after you had that  
3 first conversation?

4 A. I was called by a Skip Tracer I assume  
5 who wanted to know if I am -- who I am, in  
6 which case they told me I would be receiving a  
7 subpoena, and that must have been you  
8 indirectly.

9 Q. You received the subpoena.

10 A. I received the subpoena.

11 Q. Then what did you do when you  
12 received it? Did you call Arnold and Porter?

13 A. Yes.

14 Q. And who did you talk to?

15 A. I talked to a secretary, I believe.  
16 People I was involved with were not available.

17 Q. Then did you make contact with  
18 the people you were involved with eventually?

19 A. They eventually contacted me.

20 Q. Did you talk to them about your  
21 deposition, about giving this deposition?

22 A. At that time? No. Well, except for the  
23 fact that we had changed the original dates and  
24 place of meeting, et cetera.

25 Q. Then you eventually met with

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1 your -- with lawyers from Arnold and Porter to  
2 prepare for today's deposition?

3 A. Yes.

4 Q. And when was that?

5 A. Tuesday of this week and Tuesday of last  
6 week.

7 Q. Where did you meet?

8 A. Once in this office and once in another  
9 nearby.

10 Q. And the first meeting, the  
11 Tuesday of last week, where was that one? Was  
12 that here or at another office?

13 A. In another office down the hall.

14 Q. They were both at Arnold and  
15 Porter?

16 A. Yes.

17 Q. Who did you meet with the first  
18 time?

19 A. Both times.

20 Q. Mr. Hurwitz?

21 A. With Mr. Hurwitz.

22 Q. Is that the only person you met  
23 with?

24 A. On both occasions we were alone.

25 Q. How long did you meet with him

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1 the first time?

2 A. Most of the day. Ten to --

3 Q. Four or five? What about the  
4 second day?

5 A. Ten to three. No. Ten to two-fifteen.

6 Q. Did you review any documents that  
7 you wrote or received while you were at Philip  
8 Morris at any of these two sessions?

9 A. Yes.

10 Q. Would you say you -- you  
11 reviewed more than 25 documents?

12 A. I wouldn't be able to guess at that. I  
13 doubt that there were that many.

14 Q. Did any of these documents  
15 refresh your memory as to some of the things  
16 that were discussed in the documents?

17 A. As to some of the things that were  
18 discussed?

19 Q. In other words, when you looked  
20 at a document did it bring back some memory  
21 about certain events or studies that you worked  
22 on or other things --

23 A. Yes, it did. Yes, they did.

24 Q. Do you have any documents in your  
25 home or anywhere else that were created while

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1 you were at Philip Morris that you now possess?

2 A. No.

3 Q. Do you recall specifically what  
4 documents you looked at in this preparation  
5 session?

6 MR. HURWITZ: I'm going to  
7 object. I'm representing both Philip Morris and  
8 Mr. Ryan. My preparation for the deposition  
9 with Mr. Ryan is privileged, and the documents I  
10 selected him to review are also privileged. To  
11 the extent he identifies individual documents  
12 would be reflecting attorney/client  
13 communication and work product. I'm going to  
14 instruct the witness not to answer.

15 Q. Do you communicate with any  
16 present Philip Morris employees?

17 A. No.

18 Q. Do you communicate with any  
19 former Philip Morris employees?

20 A. No.

21 Q. Let's trace your background for a  
22 moment, if we could.

23 You are a college graduate?

24 A. I am.

25 Q. You graduated from where?

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- 1 A. Tulane University.
- 2 Q. What year?
- 3 A. '58.
- 4 Q. With a degree in what?
- 5 A. Bachelor's, political science.
- 6 Q. Upon graduation from Tulane did
- 7 you seek employment?
- 8 A. No.
- 9 Q. What did you do?
- 10 A. Graduate school.
- 11 Q. Where?
- 12 A. Tulane.
- 13 Q. Did you get a graduate degree?
- 14 A. Yes. Master's degree in psychology.
- 15 Q. What year?
- 16 A. I think it was '60.
- 17 Q. Then what did you do?
- 18 A. Graduate school. To further the work.
- 19 Q. Where?
- 20 A. University of Iowa.
- 21 Q. Work in psychology?
- 22 A. Work in psychology.
- 23 Q. What kind of graduate work?
- 24 A. Experimental.
- 25 Q. Were you desiring to obtain a

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1 Ph.D.?

2 A. Yes.

3 Q. But it never happened?

4 A. Never happened.

5 Q. How long were you at Iowa?

6 A. Four years.

7 Q. So fair to say maybe '61 to '65?

8 A. I left in '63.

9 Q. When did you go?

10 A. Florida State University.

11 Q. I'm sorry. When did you go to  
12 Iowa. If you left in '63, when did you go?

13 A. Late '59. I received my master's in  
14 absentia in '60.

15 Q. And after Iowa you went to  
16 another university?

17 A. Florida State University.

18 Q. What years were you there?

19 A. I was there from 1963 to 1968.

20 Q. What were you doing at Florida  
21 State?

22 A. Teaching.

23 Q. What were you teaching?

24 A. Experimental psychology.

25 Q.

REDACTED

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18

**REDACTED**

A.

A.

Q. Would you say, Mr. Ryan, that you have an expertise in psychology?

A. Yes.

Q. Are you currently a member of any professional associations?

A. No.

Q. Were you at any time during your working career? Are you retired now?

A. Yes. I am retired now.

Q. During your working career were you a member of any professional associations?

A. No.

Q.

**REDACTED**

A.

Q.

**REDACTED**

A.

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1 **REDACTED**

2 Q. In 1968 did you leave Florida  
3 State?

4 A. I did.

5 Q. Where did you go?

6 A. Philip Morris Research and Development.

7 Q. Were you employed continuously by  
8 Philip Morris from 1968 to the time you retired?

9 A. I was.

10 Q. You retired in what year?

11 A. '90.

12 Q. 1990?

13 A. Yes.

14 Q. You weren't employed -- Correct  
15 me if I'm wrong. -- by any other company during  
16 that period, 1968 to 1990?

17 A. No.

18 Q. In 1968 you joined Philip Morris  
19 in what capacity?

20 A. My title was research scientist.

21 Q.

22 **REDACTED**

23 A.

24

25 Q. Were you interested in seeking

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1 other positions in academia?

2 A. Yes.

3 Q. And nothing was coming up?

4 A. I applied and considered several  
5 alternative positions.

6 Q. Did you -- Alternative positions  
7 at other universities?

**REDACTED**

8 A.

9 Q. Did you also consider  
10 opportunities in the private sector other than  
11 Philip Morris?

12 A. Other corporations?

13 Q. Right.

14 A. No.

15 Q. How did you hear about the job  
16 opening at Philip Morris?

17 MR. SHUB: Strike that.

18 Q. Was this a job that was existing  
19 or was it a job that was created?

20 A. Created.

21 Q. How did you come to understand it  
22 was created and not existent?

23 A. Advertised in a job-for-psychologists  
24 type pamphlet.

25 Q. If you remember, what was the job

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1 description that you thought you were applying  
2 for when you applied for the job at Philip  
3 Morris?

4 A. I have no way of recalling that. Sorry.

5 Q. But it was a research scientist  
6 in psychology?

7 A. Yes.

8 Q. And it was to studies smokers?  
9 Is that what you understood --

10 A. Not necessarily so.

11 Q. What did you understand the job  
12 to be that you were applying for?

13 A. It would be a wide variety of things that  
14 my training might prepare me to handle. One was  
15 the studies of a shaving system.

16 Q. Who did you -- You sent a resume  
17 to Philip Morris?

18 A. Yes.

19 Q. Who did you send it to?

20 A. William Dunn. Dr. William Dunn.

21 Q. Had you known Dr. Dunn prior to  
22 sending you -- prior to sending your resume to  
23 him?

24 A. No. I say that because I'm not quite  
25 sure how to answer the question as you asked

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1 it. I called on the phone, was referred to  
2 Dr. Dunn, came and saw him, met him, later gave  
3 him a resume during the course of the day.

4 Q. Did you come to Richmond to meet  
5 with Dr. Dunn?

6 A. I did.

7 Q. Did you meet with Dr. Dunn while  
8 you were there?

9 A. Yes.

10 Q. Did you meet with anybody else  
11 while you were there?

12 A. I was introduced to a number of people  
13 whose names are long gone.

14 Q. Did you interview with -- Did he  
15 interview you?

16 A. Yes.

17 Q. Did anybody else interview you?

18 A. No.

19 Q. Do you recall as a general matter  
20 the questions that Dr. Dunn asked you during  
21 this interview?

22 A. No.

23 Q. Did you talk about Philip Morris'  
24 cigarette business in any way?

25 A. Yes.

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1 Q. What did you talk about?

2 A. He told me that Philip Morris was the  
3 smallest or next-to-smallest of the major  
4 tobacco companies.

5 Q. And in 1968 that was true, was it  
6 not? They were one of the smaller tobacco  
7 companies?

8 A. I believe so.

9 Q. When you left in 1990 they were  
10 the biggest tobacco company. Is that correct?

11 A. Yes. Would you like to attribute the  
12 increase to me?

13 Q. I was going to ask you what you  
14 would like to attribute the increase to in your  
15 mind. As a person who was there 22 years, what  
16 in your estimation is the reason why Philip  
17 Morris rose to some prominence in that period?

18 MR. HURWITZ: I'll ask Dr. Ryan  
19 not to speculate.

20 Answer if you know.

21 MR. SHUB: I'm asking for his  
22 opinion. Mr. Ryan, I'm not asking you to  
23 speculate on any question, but I'm asking your  
24 opinion. So I don't think you can wave a magic  
25 wand and have the answer to this question, but

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1 I'm asking in your opinion what's the answer?

2 MR. HURWITZ: I object to the  
3 question. Calls for speculation.

4 You can answer.

5 THE WITNESS: Am I to answer?

6 MR. HURWITZ: Yes.

7 A. The corporation was very successful in  
8 identifying the type of products which consumers  
9 wished and manufacturing them and in making  
10 making them as inexpensively as we could hope  
11 for.

12 Q. It is fair, Mr. Ryan, to say you  
13 played some part in that rise, isn't it?

14 A. Trivial.

15 Q. You were part of identifying  
16 products that consumers wished to consume.  
17 Correct?

18 A. I was.

19 Q. Do you presently receive --

20 MR. SHUB: Strike that.

21 Q. Do you have any working  
22 relationship with Philip Morris presently?

23 A. Do I work for Philip Morris in any way?

24 Q. In any way.

25 A. No.

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1 Q. You're not a consultant to Philip  
2 Morris at all?

3 A. No.

4 Q.

5

6 A.

7

8

9 A.

10 Q.

11

12 A.

13 Q.

14

15

16 A.

17 Q.

18

19

20 A.

21 Q. Back to your initial entry to  
22 Philip Morris, did you interview with Dr. Dunn  
23 and did he make you a job offer on the spot?

24 A. Yes.

25 Q.

REDACTED

REDACTED

REDACTED

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1 A.  
2  
3 A.  
4 Q.  
5 A.  
6 Q.  
7 A.  
8 Q.  
9  
10  
11 A.  
12 Q.  
13  
14 A.  
15  
16 Q.  
17  
18 A.  
19 Q.  
20 A.  
21  
22  
23  
24  
25

REDACTED

REDACTED

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Q. Are you saying that based on research you conducted while at Philip Morris that smokers tend to interact with each other in their smoking behavior?

A. Yes.

Q.

REDACTED

A.

Q.

A.

Q.

A.

Q.

REDACTED

A.

Q.

A.

Q.

REDACTED

A.

Q. So you came to the company --  
Did you accept the job offer on the spot?

A. No, I did not.

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1 Q. How long after the offer was made  
2 did you accept it?

3 A. Couple of weeks.

4 Q. What did Dr. Dunn tell you you  
5 would be doing?

6 MR. HURWITZ: Objection. Vague.  
7 What do you mean by "doing," while he was at  
8 Philip Morris?

9 MR. SHUB: I think it's fairly  
10 clear.

11 Q. We're not talking about what you  
12 were going to be doing at the baseball game that  
13 night.

14 A. No.

15 MR. HURWITZ: What time period  
16 are you talking about? When he first started  
17 with the company?

18 MR. SHUB: We're talking about  
19 his interview, I believe, he had with Dr. Dunn.

20 Q. And, therefore, the question is,  
21 what did Dr. Dunn tell you at that point that  
22 you would be doing during that interview?

23 A. I'm a little unclear as to what he told  
24 me. He had a job offer, and that was what was  
25 important.

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1 Q. You accepted it a couple weeks  
2 later?

3 A. I accepted it a couple weeks later.

4 Q. And you moved from Florida to  
5 Richmond.

6 A. I did.

7 Q. And you came to the company at  
8 that point. Correct? You started in 1968 as a  
9 research scientist?

10 A. Correct.

11 Q. Is it more accurate to say,  
12 though, that you were a psychologist?

13 A. Yes.

14 Q. And that that's really the types  
15 of activities you were involved in, to studies  
16 the psychology of individuals?

17 MR. SHUB: Let me rephrase that.

18 A. Rats pressing a bar in a Skinner box.

19 MR. SHUB: Let me rephrase it.

20 Q. Did your job title change at all  
21 during your tenure at Philip Morris?

22 A. Yes.

23 Q. And you had the tile of research  
24 scientist from 1968 until when?

25 A. Sometime in the mideighties.

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1 Q. And your title changed in the  
2 mideighties?

3 A. Yes.

4 Q. Until when? I'm sorry. At  
5 what -- What was your job title?

6 A. Associate senior scientist.

7 Q. That's the title that you had  
8 until you retired?

9 A. It is.

10 Q. Who did you report -- Did you  
11 report to one individual during your career at  
12 Philip Morris or did your supervisors or bosses  
13 change over time?

14 A. They changed.

15 Q. You reported to Dr. Dunn when you  
16 came in 1968?

17 A. Yes.

18 Q. And how long did you report to  
19 Dr. Dunn?

20 A. Until I was promoted.

21 Q. Who did you report to when you  
22 were promoted?

23 A. The manager of the product development --  
24 excuse me. The product opinion laboratory.

25 Q. Who was the manager of the

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1 product opinion lab?

2 A. I'm sorry. I can't remember. They had a  
3 lot of changes in the years I was there.

4 Q. So when you were promoted to  
5 associate senior scientist, that's when you  
6 started reporting to the manager of the product  
7 opinion laboratory?

8 A. Yes.

9 Q. You worked fairly closely with  
10 Dr. Dunn over the course of your career at  
11 Philip Morris?

12 A. Up until my promotion, yes.

13 Q. And did you have a --

14 MR. SHUB: Strike that.

15 Q. Is it fair to say you had respect  
16 for Dr. Dunn as a research scientist?

17 A. It is.

18 Q. You considered him to be a bright  
19 man?

20 A. He is.

21 Q. A carefully -- A man that  
22 carefully thinks out his ideas before committing  
23 them to paper in a professional manner?

24 MR. HURWITZ: Objection.

25 MR. DOLUISIO: Objection.

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1 THE WITNESS: Excuse me?

2 MR. HURWITZ: You can answer the  
3 question. I just objected to it.

4 A. Dr. Dunn is human, but he's a good man.

5 Q. He's a man of integrity, too,  
6 isn't it?

7 A. He's what?

8 Q. He's a man of integrity, isn't  
9 he?

10 A. He is. To the best of my knowledge.

11 Q. In fact, you've never known him  
12 to be professionally irresponsible, have you?

13 A. No.

14 Q. Did you have anybody reporting to  
15 you during the time that you were reporting to  
16 Dr. Dunn?

17 A. Yes.

18 Q. You had research associates under  
19 you?

20 A. Yes.

21 Q. Who were the research associates  
22 that were under you as far as you can remember  
23 during that period? I know there were probably  
24 several because they changed.

25 A. That is correct.

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1 Q. But the ones you remember?

2 A. Mrs. Barbara Hancock. Names are among  
3 the first things to go as you age. Jan Jones.

4 Q. Was Jan Jones under you or she  
5 was on your level? She was actually reporting  
6 to you?

7 A. Depends on what time we're talking  
8 about. Originally she was -- Before she  
9 received her Ph.D. she reported to me.

10 Q. Do you know -- I think it's a  
11 Tom Schori, S-C-H-O-R-I.

12 A. Yes.

13 Q. Did he report to you?

14 A. No. He didn't report to me.

15 Q. He was in the behavioral re --

16 A. He was in the behavioral research  
17 laboratory.

18 Q. And you were in the behavioral  
19 research laboratory?

20 A. Yes.

21 Q. Within the research and  
22 development department at Philip Morris in  
23 Richmond?

24 A. That's correct.

25 Q. Dr. Dunn headed up the behavioral

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1 research laboratory?

2 A. He did.

3 Q. He headed up that effort from the  
4 time you came in 1968 until you started  
5 reporting to the manager at the product opinion  
6 laboratory?

7 A. Yes.

8 Q. In your view was Dr. Dunn well  
9 thought of by management at Philip Morris?

10 MR. HURWITZ: Objection. Calls  
11 for speculation.

12 You can answer.

13 A. I don't know. You're asking -- Excuse  
14 me. You asked me in my view --

15 Q. Yes. In your view.

16 A. I never gave it a thought at the time.

17 Q. Did you ever hear anyone at  
18 Philip Morris make disparaging remarks about  
19 Dr. Dunn while you were at Philip Morris?

20 MR. HURWITZ: Objection. What do  
21 you mean by "disparaging remarks"? Didn't like  
22 him personally?

23 MR. SHUB: Yes.

24 A. Yes.

25 Q. Were they disparaging remarks

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1 that were made on a professional basis as  
2 opposed to a personal basis?

3 A. Not on a professional basis.

4 Q. So, therefore, is it fair to say  
5 in your mind that Dr. Dunn was respected  
6 professionally by his colleagues at Philip  
7 Morris?

8 MR. DOLUISIO: Objection.

9 MR. HURWITZ: That calls for  
10 speculation.

11 You can answer the question.

12 A. Very much so. His colleagues consisted  
13 of those people who worked with him. We had the  
14 greatest respect for him.

15 Q. Who were some of the other  
16 research associates that worked for you if you  
17 can remember?

18 A. That worked for me?

19 Q. Yes. Or reported to you?

20 A. Yes. I'm sorry. I don't recall the  
21 names.

22 Q. What about people that you worked  
23 with? Do you recall any of the individuals that  
24 you worked with, not necessarily for you, but in  
25 the behavioral research group?

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1 A. There was a Sandra Dunn. A Carolyn  
2 Levy. You mentioned Schori. Myron Johnston,  
3 who was an economist, but he was in the same  
4 room with us. Victor DeNoble, Paul Miehle,  
5 Barbara Jones, Peggy Martin. There were others,  
6 but those are the ones whose names come to me  
7 this morning.

8 Q. What -- Taking the time frame  
9 1968 to 1975 -- And I'm only doing that so  
10 counsel doesn't object to this rather broad  
11 question I'm going to ask you, but during that  
12 time frame what did you do on a day-to-day basis  
13 at Philip Morris as a research scientist?  
14 What's the type of activities you would engage  
15 in?

16 MR. HURWITZ: You're talking  
17 about work or just general?

18 Q. Work. What kind of work did you  
19 do?

20 A. I had a wide variety of things that were  
21 conducted during that time period, and we did  
22 such research as we thought was interesting;  
23 that is, we didn't get telephone calls from  
24 management saying, I've got to know today  
25 whether such-and-such or so-and-so. We,

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1 instead, would be asked quarterly or annually to  
2 suggest what we were going to do during the next  
3 quarter or the next year, and we would say,  
4 Well, let's see. We'll -- (Witness indicates.)  
5 And if you had some research you had completed,  
6 you perhaps might get an idea based upon the  
7 results of that research and say, We're going in  
8 this direction or that direction. By and large  
9 the company let us alone and supplied us with  
10 what we needed to do what we were doing.

11 Q. What kind of research were you  
12 doing?

13 A. I spent a lot of time studying smoking  
14 behavior.

15 Q. You spent other time doing what?  
16 When you weren't studying smoking behavior what  
17 were you doing?

18 A. We studied quitting, which I would  
19 normally consider as part of a behavior, et  
20 cetera.

21 Q. But it all involved the Philip  
22 Morris' business, which was to sell cigarettes.

23 MR. HURWITZ: Objection. No  
24 foundation.

25 You can answer the question.

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1 A. I don't ever think we were particularly  
2 interested in the question of selling  
3 cigarettes.

4 Q. Ultimately, though, in your mind  
5 do you believe you would have been in Philip  
6 Morris' R and D department if the ultimate  
7 objective of your work was not to gain  
8 information that would help Philip Morris in the  
9 marketplace?

10 MR. HURWITZ: Objection.  
11 Speculation.

12 A. No. You want to ask me what I thought it  
13 was?

14 Q. Sure.

15 MR. HURWITZ: Let him ask the  
16 questions. Okay?

17 Q. I do. You can answer that  
18 question.

19 A. We believed that Philip Morris management  
20 did not know why people chose their cigarettes  
21 over others or why people smoked at all. There  
22 was always the chance some change. Products  
23 would be made as they had to be made every year  
24 because the crops were different and there were  
25 new ways to handle the tobacco, and all of a

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1 sudden people would say, Oook, I don't like this  
2 anymore, and the whole great house of cards  
3 would come tumbling down around our heads and  
4 we're out on the street. So the question was,  
5 why do people smoke, and I was hired in part as  
6 it developed to answer that question.

7 Q. That was in your mind the guiding  
8 question of what kind of work you were doing,  
9 was to understand why people smoked?

10 A. It was one of the major.

11 Q. What were some of the other  
12 guiding questions that -- in your mind that  
13 guided your work?

14 A. Why -- And I mean to accentuate the fact  
15 I'm talking about -- the word "why" is a  
16 difficult question for a scientist to answer.  
17 Many times he can answer the why if you can  
18 specify all of the variables which are related  
19 to the response in which he's concerned. So it  
20 becomes a question of how do people smoke and  
21 what circumstances do they smoke, and we twisted  
22 the why into the how and did research into the  
23 how do people smoke rather than into the more  
24 emotionally-laden question of why, which is very  
25 difficult to respond to.

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1 Q. Mr. Ryan, did you ever hear  
2 Dr. Dunn be referred to at Philip Morris as the  
3 nicotine kid?

4 A. No.

5 Q. Is it fair to say, sir, that you  
6 understood that Dr. Dunn was a proponent at  
7 Philip Morris of the hypothesis that people  
8 smoked for the pharmacological response that  
9 they got from nicotine in the cigarettes?

10 A. Yes.

11 Q. And that there were others at  
12 Philip Morris that also believed that that was a  
13 well-reasoned hypothesis?

14 MR. HURWITZ: Objection. No  
15 foundation.

16 Q. In other words, Dr. Dunn was not  
17 alone in his view that that was a reason why  
18 people smoked, and that reason being to obtain  
19 the pharmacological response the body gets from  
20 nicotine.

21 A. No.

22 MR. HURWITZ: Objection.

23 You can answer the question.

24 A. That was not -- He was not alone. The  
25 response that you suggest is -- was part of the

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1 folklore that pervaded the industry.

2 Q. And that was -- Is it fair to  
3 say that you joined Dr. Dunn in believing the  
4 validity of that hypothesis? Correct?

5 A. I had severe reservations about that  
6 hypothesis.

7 Q. So is it fair to say you were not  
8 one of the people at Philip Morris that would be  
9 considered to have endorsed that hypothesis?

10 MR. HURWITZ: Objection. No  
11 foundation.

12 MR. SHUB: Strike that.

13 Q. Is it fair to say Dr. Dunn  
14 endorsed that hypothesis?

15 A. Difficult for me to answer.

16 Q. He believed it, it was true. He  
17 believed people smoked because they wanted to  
18 obtain the pharmacological effect that nicotine  
19 has upon the body? Correct?

20 MR. HURWITZ: Objection. Calls  
21 for speculation.

22 Q. Dr. Dunn told you it's not  
23 speculation. You had discussions with him.  
24 We're not speculating. Right?

25 A. Actually, we very seldom discussed issues

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1 of this character.

2 Q. But you might not have discussed  
3 it regularly, but is it fair to say that you had  
4 at least one communication during your career at  
5 Philip Morris where Dr. Dunn espoused his view  
6 that people smoked for the pharmacological  
7 effect of nicotine?

8 A. Yes.

9 Q. So we're not speculating.

10 A. That was one of the reasons he felt that  
11 people smoked.

12 Q. And, in fact, as you -- Do you  
13 recall writings that he issued at Philip Morris  
14 where he said it was what he believed the  
15 primary reason why people smoked? It might have  
16 been one, but it was a very important one.  
17 Correct?

18 A. Yes.

19 Q. It might have been the most  
20 important one. Correct?

21 MR. HURWITZ: Objection.

22 A. I can't really answer that question. I  
23 didn't know what -- how he was ranking things  
24 within his own mind. Certainly as he directed  
25 me to continue with the research I was doing

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1 that wasn't focused on this I would say that he  
2 had a lot of alternative reasons for smoking in  
3 his mind.

4 Q. Why would you have reservations  
5 about the hypothesis that people smoked to  
6 obtain the pharmacological effect nicotine  
7 produces? You will agree nicotine produces a  
8 pharmacological effect upon the body. Correct?

9 A. I'm not a pharmacologist.

10 Q. As far as you understand.

11 A. You're asking me as far as I understand.  
12 I'm going to say yes in the broad sense that  
13 average educated layman would say yes to that  
14 same question.

15 Q. Well, Mr. Ryan, I appreciate your  
16 modesty, but you're no layman when it comes to  
17 understanding why people smoked.

18 A. No, I'm not.

19 Q. And how nicotine affects how  
20 people smoke?

21 A. There I may be a layman. I'm at least a  
22 skeptic.

23 Q. You're a skeptic, but you're not  
24 a skeptical layman.

25 MR. HURWITZ: Objection.

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1 Q. You're someone that spent 20  
2 years at Philip Morris' R and D in the  
3 behavioral research department.

4 MR. HURWITZ: Objection.

5 MR. SHUB: Let me finish.

6 Q. Where issues of this nature were  
7 studied rather carefully. Therefore --

8 MR. HURWITZ: Objection.  
9 Mischaracterized his testimony.

10 MR. SHUB: I'm not characterizing  
11 his testimony. I didn't say --

12 MR. HURWITZ: You're testifying  
13 yourself. There's no testimony on the record.

14 MR. SHUB: That's different.

15 Q. Let's get back to what we were  
16 talking about. What were you skeptical about  
17 with respect to the hypothesis we've been  
18 discussing?

19 A. I would have been skeptical about any  
20 single variable being offered as a dominant  
21 factor in affecting people's smoking behavior.  
22 It wouldn't make any difference in what the  
23 variable was because smoking is such a complex  
24 behavior and it is so multidetermined; that is,  
25 there could be a whole wide variety of reasons

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1 why you smoke at a given point.

2 Q. Let me pose this question. If  
3 Philip Morris decided to take nicotine out of  
4 every one of its cigarettes it sells do you  
5 think Philip Morris would sell the same amount  
6 of cigarettes?

7 MR. DOLUISIO: Objection.

8 Q. You can answer.

9 A. The question is, do I think Philip Morris  
10 would sell the same number of cigarettes if they  
11 took nicotine out?

12 Q. Correct.

13 A. No.

14 Q. Why?

15 A. Whenever you make a change in a -- in  
16 what people are accustomed to and what they are  
17 expecting, you find a decrease in  
18 acceptability. We refer to that as a  
19 stimulus-generalization curve in psychology if  
20 this is a continuum along here of stimulus  
21 situations, this is the one in the center that  
22 is -- the one in which you have the most  
23 experience, and we measure the strength of  
24 acceptability of a new product as you change  
25 that stimulus either by making it less or by

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1 making it more in this direction. You come up  
2 with a curve that's shaped like this. It's  
3 called a stimulus-generalization curve and it  
4 says that the more different the cigarette is,  
5 the less -- the more different any stimulus is,  
6 the less it will be likely to have the same  
7 effect as the original stimulus had.

8 That means people who smoked  
9 low-delivery cigarettes will not smoke as many  
10 if you give them more nicotine in their  
11 cigarette, and it means people who smoke  
12 full-flavored cigarettes will not smoke as many  
13 if you give them lower-nicotine cigarettes. You  
14 will have changed the product, changed the  
15 taste, and, consequently, you'll change the  
16 acceptability, and if you change the  
17 acceptability you'll change the number of items  
18 that they consume, and we could now make a  
19 similar statement about any product you could  
20 think of.

21 Q. Could you make a similar  
22 statement as to any ingredient that goes into a  
23 cigarette would cause that kind of change; it  
24 doesn't matter what it is? In other words, we  
25 decide to alter the cigarette by not adding a

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1 certain additive that's added now. Would that  
2 cause the same type of change in consumer  
3 acceptability?

4 MR. DOLUISIO: Objection.

5 A. I don't know about that factor in the  
6 real world, but if you change the taste of the  
7 smoke, you're going to change the  
8 acceptability. The only way the acceptability  
9 is going to change, I have decided after many  
10 years, was downwards.

11 MR. HURWITZ: We've been almost  
12 going for an hour. Do you want to take a break  
13 soon?

14 THE VIDEOGRAPHER: We're going  
15 off at the record at 11:23:37.

16 (Recess.)

17 THE VIDEOGRAPHER: The time on  
18 the screen is 11:32:47. We're back on the  
19 record.

20 Q. A minute ago I asked you about  
21 what you thought would be the result of Philip  
22 Morris taking nicotine out of its cigarettes and  
23 whether they would sell less cigarettes, and  
24 you, I believe, responded that you thought they  
25 would sell less cigarettes because there would

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1 be a change in the product. Is that fair?

2 A. Yes.

3 Q. If nicotine were taken out of the  
4 product, Mr. Ryan, would a smoker receive a  
5 pharmacological response from that cigarette  
6 without nicotine being in it?

7 MR. HURWITZ: Objection. Vague.  
8 What do you mean by "pharmacological response"?

9 Q. You can answer.

10 MR. HURWITZ: He can answer if he  
11 understands.

12 A. I don't know the answer to that  
13 question. I never did research into  
14 pharmacological effects of nicotine-free  
15 cigarettes.

16 Q. Did you do research in the  
17 pharmacological effects of cigarettes that  
18 contain nicotine?

19 MR. HURWITZ: Objection.

20 A. Yes. The -- State your question again.

21 Q. Did you do research into the  
22 pharmacological --

23 A. That wasn't --

24 Q. That's not what I asked you.  
25 You're right. I asked you whether you studied

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1 cigarette -- You know what?

2 MR. SHUB: Can the reporter read  
3 back my -- would you read back my question?

4 (The last question is read back  
5 by the reporter.)

6 MR. HURWITZ: Objection.

7 A. I would have to change my answer to no.  
8 I didn't do research into the pharmacological  
9 effects.

10 Q. Was that research being done, as  
11 far as you know, at Philip Morris while you were  
12 there?

13 MR. HURWITZ: Objection.

14 MR. SHUB: Off the record a  
15 minute.

16 THE VIDEOGRAPHER: We're going  
17 off the record at 11:35:31.

18 (Recess.)

19 THE VIDEOGRAPHER: The time on  
20 the screen is 11:36:42. We're back on the  
21 record.

22 Q. I believe there was a question as  
23 to whether you're aware of whether research was  
24 being conducted at Philip Morris regarding the  
25 pharmacological effects of nicotine while you

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1 were there.

2 A. And the telephone call interrupted me  
3 before I could tell you.

4 No. Not in my laboratory.

5 Q. When you say your laboratory,  
6 what do you mean, your laboratory?

7 A. Large room with space to work in.

8 Q. Were there other --

9 A. Mine.

10 Q. Were there other laboratories?

11 A. Yes. Adjoining.

12 Q. They were all on the same floor  
13 of the R and D division?

14 MR. HURWITZ: Objection. I'm not  
15 really sure we know what we're talking about,  
16 "other laboratories."

17 MR. SHUB: Other laboratories at  
18 Philip Morris R and D. I think the witness and  
19 I are communicating.

20 A. We have a number of floors in a number of  
21 buildings with laboratories in them doing  
22 research of all types. I know of no one who in  
23 the time period we're discussing was actively  
24 doing any research that I would call  
25 psychopharmacological.

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1 Q. What time period are we  
2 discussing?

3 A. You said it was up until the mid 1970s, I  
4 believe.

5 Q. Let's take that time frame up to  
6 the time you left Philip Morris. Let's expand  
7 it from '68 now to 1990? Is that when you left?

8 A. It was -- Actually, I left in '90 and I  
9 went on pension in '91.

10 Q. '68 to '90. Was any of that  
11 research being done during that time frame  
12 anywhere at R and D, Richmond?

13 MR. HURWITZ: "That research"?

14 A. Are you asking me whether we had a  
15 psychopharmacologist on the board?

16 Q. Are you distinguishing  
17 psychopharmacology from pharmacology? In your  
18 mind there's a distinction. Correct?

19 A. There would be, but we didn't have any of  
20 either that I knew of. We had a psychologist  
21 who was interested in that region.

22 Q. I'm sorry. I didn't hear you.

23 A. We may have had a psychologist interested  
24 in that topic matter, but --

25 Q. Who was that psychologist that's

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1 in your mind?

2 A. DeNoble.

3 Q. Did you know Dr. DeNoble?

4 A. Yes.

5 Q. Did you work with him  
6 professionally?

7 A.

8 **REDACTED**  
9

10

11

12 Q. What was Dr. DeNoble working on  
13 as far as you understand while he was at Philip  
14 Morris?

15 A. He was interested in the effects of  
16 nicotine upon the behavior of rats seeking to  
17 find whether rats would press bars in a Skinner  
18 box operant chamber in order to get  
19 self-administered small doses of nicotine  
20 delivered straight to specific subportions of  
21 the brain.

22 Q. How did you come to understand  
23 that's what Dr. DeNoble was working on?

24 A. **REDACTED**

25 c-

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A. Different sequence of --

Q. Were you at the company when Dr. DeNoble left the company?

Q. Do you recall the circumstances surrounding his departure from Philip Morris?

Q. Tell me what you recall about the circumstances surrounding his departure.

A. His departure coincided with the termination of the behavioral research laboratory. Our jobs were done away with. He was superfluous. I was transferred to another department.

Q. When did that occur, around 1984?

A. I think so. Sounds reasonable. I don't

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1 recall specifically.

2 Q. How did you come to understand  
3 that --

4 MR. SHUB: Strike that.

5 Q. So not just Dr. --

6 MR. SHUB: Strike that.

7 Q. The entire behavioral research  
8 lab at R and D was closed?

9 A. Correct.

10 Q. How many employees did that  
11 affect? How many people were working at what  
12 you would call the behavioral research lab  
13 during that period? It was you and  
14 Dr. DeNoble. Correct? Dr. Miehle?

15 A.

16 Q.

17 A.

**REDACTED**

18 Q.

19 A.

20

21 Q.

22 A.

**REDACTED**

23

24

25 Q. Who was the woman? I interrupted

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1 your train of thought. You were trying --

2 A. Gullota had a research assistant whose  
3 name I cannot for the life of me recall. That's  
4 embarrassing not to be able to remember the  
5 names of people with whom you interacted every  
6 day and were friendly and had coffee.

7 Q. I won't tell her, though.

8 A. Thank you.

9 Q. So, so far I know you, DeNoble,  
10 Miehle, Gullota, Jan Jones. Anyone else you can  
11 remember who was working at the lab at the time  
12 it was closed?

13 A. I don't recall anyone else.

14 Q. How did you come to understand  
15 that the lab was going to be closed?

16 A. I was called into the vice president of  
17 R and D's office.

18 Q. Would that have been Dr. Osdene  
19 at that point?

20 A. No.

21 Q. Seligman?

22 A. No.

23 Q. You tell me. Wakeham?

24 A. No.

25 Q. Who?

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1 A. Can't recall his name. European.  
2 Swiss.

3 Q. Dr. Hausermann?

4 A. Hausermann. Hausermann.

5 Q. What did Dr. -- I think it's  
6 Mr. Hausermann, but what Mr. Hausermann tell  
7 you. What did he tell you?

8 A. He told me that, A, I was getting  
9 promoted and, B, transferred to another  
10 department and, C, they were doing away with the  
11 research projects, Project 13. Project 1600,  
12 which was the number under which we all operate  
13 for internal accounting reasons.

14 Q. Did he tell you why they were  
15 getting rid of Project 1600?

16 A. No.

17 Q. Did you ask him why?

18 A. No.

19 Q. Did you have any ideas at that  
20 time why?

21 MR. HURWITZ: Objection to the  
22 extent it calls for speculation.

23 A. When you discover that the boat is  
24 sinking and here's a raft for you, your Number 1  
25 thought is, Good. I'm on the raft, and that was

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1 my thought. And the job that I had been doing  
2 was no longer going to be supported by Philip  
3 Morris, but there was a place for me on  
4 board --

5 Q. On the boat.

6 A. On the boat. On another boat. In  
7 another building, and Jan Jones would come with  
8 me as a colleague.

9 Q. What would happen to Dr. Gullota?

10 A. Gullota was to transfer to some other  
11 status as -- I can't tell you any more than  
12 that because we didn't often discuss this sort  
13 of thing. Philip Morris is like a lot of  
14 companies, I suppose, where they don't want  
15 employees discussing their salaries or things of  
16 that type for a wide variety of corporate  
17 reasons.

18 Q. Nor do they want the people to  
19 discuss, is it fair to say, terminations of  
20 people?

21 MR. HURWITZ: Objection.

22 Q. Or why they were terminated.

23 MR. HURWITZ: Objection.

24 A. I wouldn't necessarily say that. I'm  
25 sure that they would not want a big fuss made

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1 over something. If it was conducted for the  
2 average reason that we have downsizings.

3 Q. How much notice did you have  
4 about the behavioral research lab being closed?

5 MR. HURWITZ: Objection. No  
6 foundation.

7 Q. You can answer.

8 MR. HURWITZ: You can answer.

9 A. I think it was 10:25 in the morning I was  
10 asked to go down to the vice president's office  
11 and he told me at 10:30, and the following  
12 morning I reported in another building.

13 Q. So it was basically overnight.

14 A. I probably could have gone that afternoon  
15 if I had been able to clean up my office.

16 Q. Didn't you find that suspicious  
17 that the lab was -- that you were told one day  
18 ahead of time, or even that afternoon, that the  
19 lab was being closed?

20 A. This was not the first time projects had  
21 been eliminated at Philip Morris that -- in the  
22 years I've been there. I don't remember any  
23 specific ones, but there have been others that  
24 have been closed.

25 Q. That abruptly?

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1 A. I don't know. I didn't discuss such  
2 matters.

3 Q. Well, the projects you were  
4 involved with that you said were --

5 MR. SHUB: Strike that.

6 Q. Were you involved in any other  
7 projects that were closed?

8 A. No.

9 Q. But you knew of others that had  
10 been closed.

11 A. Yes.

12 Q. Or terminated. In your  
13 understanding were they terminated or were the  
14 folks that were working on those projects told  
15 that morning that the project was going to be  
16 terminated today or tomorrow?

17 MR. HURWITZ: Objection.

18 A. I'm sorry. I don't recall any of that  
19 information. I couldn't even come up with a  
20 number for you.

21 Q. At any time from the day that  
22 Dr. Hausermann walked in -- From the time  
23 Dr. Hausermann walked into your office --

24 MR. HURWITZ: Objection.

25 MR. SHUB: Please, counsel, don't

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1 interrupt me during question. Let me get the  
2 question out --

3 A. I was --

4 Q. Just a second Mr. Ryan.

5 MR. SHUB: Let me get the question  
6 out before you made your objection.

7 A. I'm going to deny whatever you're saying  
8 to me because he didn't walk into my office. I  
9 walked into his office. So anything you ask me,  
10 if that part of it's wrong, I'm going to have to  
11 deny.

12 Q. You've been well-trained, Mr.  
13 Ryan.

14 MR. HURWITZ: Objection.

15 Q. Let me ask you this question  
16 then. From the time you walked into  
17 Mr. Hausermann's office until this very second  
18 have you given thought to the fact that you were  
19 told within one day that the lab you were  
20 working on for -- working at for many, many  
21 years was closed that abruptly? Has that --  
22 Was there ever thought about why that was closed  
23 that abruptly?

24 MR. HURWITZ: Objection. Calls  
25 for speculation.

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1 MR. SHUB: It does not call for  
2 speculation, and I don't appreciate speech  
3 objections. I asked whether when he ever  
4 thought about it. Not what the answer is, and I  
5 don't appreciate that.

6 Q. You can answer, Mr. Ryan.

7 MR. HURWITZ: The question is  
8 whether -- is limited to whether you thought  
9 about it or not.

10 MR. SHUB: And the coaching, I  
11 don't appreciate it either, and it's going to  
12 stop. I'm telling you that now. It's going to  
13 stop.

14 Q. You can answer.

15 A. The question as I see it is since then  
16 have I often wondered what happened?

17 Q. Let me rephrase it. First of  
18 all, not often wonder. Ever wondered why --  
19 Let me lay some foundation for this question.  
20 How many years did you work at the behavioral  
21 research lab?

22 A. For the entire length of its existence.  
23 I came, and it was created. I left, and it was  
24 ended.

25 Q. You came in '68.

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1 A. Yes.

2 Q. And it was terminated in about  
3 '84.

4 A. Okay.

5 Q. So we're talking about 18 years.  
6 It's a long time, 18 years, to work in one area?

7 A. Let's make it 16.

8 Q. 16 years. Your --

9 MR. SHUB: Strike that.

10 Q. The behavioral research lab was a  
11 well-established facility at R and D by the time  
12 1984 rolled around because it had been around  
13 for almost 16 years. Correct?

14 A. Yes.

15 Q. There were at least five Philip  
16 Morris employees working in the lab at that  
17 point?

18 A. Yes.

19 Q. Probably more, correct, that you  
20 just can't remember their names, but there were  
21 probably more.

22 A. Seldom more than five or six of us on the  
23 table of organization.

24 Q. Would you -- Was it fair to call  
25 the behavioral research lab an important part of

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1 Philip Morris' research and development  
2 efforts?

3 MR. HURWITZ: Objection.

4 MR. DOLUISIO: Calls for  
5 speculation.

6 A. I must say that if it was an important  
7 part they -- you could not have proved it by my  
8 salary. Nor the fact that they closed it, both  
9 of which I would suggest implied it was not that  
10 important.

11 Q. You're saying because they closed  
12 it means it wasn't important?

13 A. If it had been a terribly important  
14 factor to Philip Morris they would have kept it  
15 going. Wouldn't you have?

16 Q. Why -- Did anyone ever tell you  
17 why the company decided to close the lab?

18 A. I don't recall ever getting a rationale  
19 for what had occurred.

20 Q. Did you ever ask anyone why they  
21 closed? Did you ever ask anyone at Philip  
22 Morris why the lab was closed?

23 A. This probably sounds strange to say no, I  
24 didn't, but I was immediately busy with a whole  
25 bunch of new projects, things to do. I had to

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1 learn how to do something and see that it got  
2 done and I was promoted and that was behind me.

3 Q. 14 years of work was behind you  
4 in a matter of 24 hours. Correct?

5 A. Yeah.

6 Q. Did that strike you as strange?

7 A. You ever been divorced?

8 MR. SHUB: I'm going to move to  
9 strike. That's not responsive to my question.

10 Q. You can ask me questions like  
11 that off the record, but I'm asking you this  
12 question. Was that strange that 14 years of  
13 work was terminated in 24 hours or less?

14 A. It had never happened to me before. That  
15 makes it strange.

16 Q. In your mind was it at all  
17 suspicious as to why it was being terminated so  
18 abruptly?

19 A. To answer your question, no. I was not  
20 having suspicious that somebody was out to get  
21 us. I suspected that it was decided that they  
22 could find better things to do with their time  
23 and effort and money, and obviously they had  
24 something that they wanted me to work on.

25 Q. Did you think in your mind at the

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1 time it was closed that your business at the  
2 behavioral research lab was no longer  
3 necessary?

4 MR. HURWITZ: I'm going to have  
5 to object.

6 MR. SHUB: I'm going to strike  
7 that question and ask another question.

8 Q. Did you think the work -- the  
9 reason it was terminated is because all the work  
10 had been completed that needed to be done at the  
11 behavioral research labs, all projects you were  
12 working on were done?

13 A. No.

14 MR. HURWITZ: Can we go off the  
15 record for a minute?

16 THE VIDEOGRAPHER: We're off the  
17 record at 11:56:55.

18 (Recess.)

19 THE VIDEOGRAPHER: The time on  
20 the screen is 11:59:24. We're back on the  
21 record.

22 Q. In other words, Mr. Ryan, you  
23 came to work that day, that morning, the morning  
24 you walked into Mr. Hausermann's office. You  
25 came to work that morning working on projects at

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1 that time. Right?

2 A. Correct.

3 Q. And the next day you weren't  
4 working on those projects anymore, were you?

5 A. No.

6 Q. And they weren't finished, were  
7 they?

8 A. No.

9 Q. They were midstream.

10 MR. HURWITZ: Objection.

11 Q. You can answer.

12 A. They were in various stages of  
13 completion.

14 Q. But they -- But certainly --

15 A. No.

16 Q. -- some weren't complete?

17 A. No completion reports were written on  
18 those projects.

19 Q. Were they ever written on those  
20 projects?

21 A. No.

22 Q. What were the projects you were  
23 working on at that time --

24 A. I'm sorry. I don't recall.

25 Q. Do you recall any of them?

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1 A. One in which I was measuring nicotine in  
2 the smoker's saliva.

3 Q. Do you recall any other projects?

4 A. No. Not -- No.

5 Q. It's your understanding, is it  
6 not that Dr. DeNoble was also working on  
7 projects that were not completed on the day that  
8 the lab was shut down? Correct?

9 A. Correct. I assume the same for everybody  
10 in the lab.

11 Q. Did you ever talk to Dr. DeNoble  
12 about the lab being shut down?

13 A. Yes.

14 Q. When?

15 A. Subsequent to its shutdown.

16 Q. Was he let go immediately on the  
17 day that the lab was shut down?

18 A. Define "immediately."

19 Q. Within 24 hours of the time the  
20 lab was shut down?

21 A. Define "let go".

22 Q. No longer coming to Richmond,  
23 Virginia, to the R and D facilities at Richmond.

24 A. Dr. DeNoble was at Richmond, Virginia,  
25 and getting his P.M. paycheck for months and

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1 months and months after the shutdown.

2 Q. He wasn't working. He wasn't  
3 actually doing pharmacological research?

4 A. No.

5 Q. He was just getting paid.

6 A. Correct.

7 Q. When was the first time you  
8 talked to Dr. DeNoble about the lab being shut  
9 down?

10 A. I do not recall.

11 Q. How many times did you talk to  
12 Dr. DeNoble about the lab being shut down?

13 A. I do not recall.

14 Q. More than once?

15 A. Undoubtedly. It was a major factor in  
16 his life.

17 Q. Because he no longer had any work  
18 to do at Philip Morris at that point. Correct?

19 A. Yes.

20 Q. He was upset about that, wasn't  
21 he?

22 A. Yes.

23 Q. As a friend were you upset about  
24 that for him?

25 A. Somewhat.

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1 Q. Were you disturbed about the  
2 circumstances upon which Dr. DeNoble's work at  
3 Philip Morris had ceased? In other words, he  
4 comes into work one day, happy he's working.  
5 The next day they take his lab away.

6 MR. HURWITZ: Objection.

7 Q. Were you a little bit annoyed at  
8 that?

9 A. I, of course, had had essentially have  
10 the same thing happen to me, but I had another  
11 post I was transferred to, and I don't know  
12 whether they made an offer like that to him, but  
13 if they did, he didn't take them up.

14 Q. What did Dr. DeNoble tell you --

15 MR. SHUB: Strike that.

16 Q. Describe for me the substance of  
17 the conversation, or conversations, that you had  
18 with Dr. DeNoble subsequent to the lab being  
19 terminated about the termination of the lab.

20 A. Impossible for me to do. It was, what,  
21 13, 14, years ago.

22 Q. I'm not asking for the details.  
23 I'm asking as a general nature what were the  
24 conversations about?

25 A. Life is hard. Life is tough. What are

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1 you going to do now? You're going to find  
2 another job easily, of course, because of your  
3 expertise in this area. Don't worry about it,  
4 Vic. Everything will be fine. They'll keep you  
5 on the salary for months until you find  
6 someplace else and they're going to give you a  
7 secretary and answer the phone, et cetera, et  
8 cetera, et cetera. Don't worry, and he went to  
9 American Home Products, I believe, very soon.

10 Q. Did you have an understanding as  
11 to whether the decision to close the lab was  
12 made by individuals in Richmond or whether it  
13 was made by individuals in New York?

14 A. I had no idea.

15 Q. Did you have an understanding as  
16 to whether the decision to close the lab was an  
17 economic decision?

18 MR. HURWITZ: Objection to the  
19 extent it calls for speculation.

20 A. They obviously weren't trying to cut back  
21 to save money, because they were putting me on  
22 salary someplace else at a slight raise. So I  
23 didn't -- I'm sure I never thought of it as  
24 being an economic decision, and I'm sure nobody  
25 ever portrayed it to me as being an economic

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1 decision.

2 Q. Why in your opinion, Mr. Ryan,  
3 was the lab terminated right in the middle of a  
4 point in which people were doing projects?

5 MR. HURWITZ: Objection to the  
6 extent it calls for speculation.

7 A. These are not questions to which I paid a  
8 lot of attention. As I say, I was transferred.  
9 I had a new job. I had new things to learn and  
10 so on. And I was excited about the new work  
11 that I was doing. I didn't worry too much about  
12 this thing that had happened, and as far as the  
13 rationale behind it -- The corporation was not  
14 like a university. It was not an alma mater for  
15 us all, but to the extent that it was foster  
16 mother for our research, et cetera, mothers  
17 don't have to give reasons for everything they  
18 decide to do, and as long as I was happy with my  
19 own career I didn't worry too much about it.

20 Q. But you took pride in the  
21 projects you worked on during at the time you  
22 were at the behavioral research lab, didn't you?

23 A. I think I had some good ones, yes.

24 Q. You made some contributions,  
25 didn't you?

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1 A. Yes.

2 Q. You up to that time had completed  
3 every project that you started.

4 A. I wish I could say yes to that, but I'm  
5 under oath. No. Of course not. I started a  
6 lot of things I never completed.

7 Q. Is that because your superior  
8 told you to stop working on it.

9 A. No.

10 Q. You didn't complete them because  
11 of -- You didn't complete them because of other  
12 circumstance?

13 A. Yes.

14 Q. This was the first time you  
15 stopped working on a project because your  
16 superior told you to stop working on it. Right?

17 A. My superiors never told me, Stop working  
18 on that project.

19 Q. But the effect of closing the lab  
20 was, Stop working on that project. Right?

21 A. Yes.

22 Q. This was the first time that it  
23 had happened. Right?

24 A. Yes.

25 Q. As a research scientist weren't

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1 you upset that someone had interfered in your  
2 professional endeavors? ,You weren't able to  
3 complete a project that you -- or projects you  
4 had probably spent a fair amount of time on.  
5 Did that upset you?

6 MR. HURWITZ: Objection.

7 A. I want to say yes because it's the  
8 socially and politically correct thing to say,  
9 but honestly, I don't think it did upset me at  
10 all. I was perfectly happy with my new position  
11 and -- go out of certain things. If I didn't  
12 finish that stuff, so what.

13 Q. What projects did you work on  
14 while you were at the behavioral research lab  
15 that you are especially proud of, if there are  
16 any?

17 A. There were many. I would have liked lab  
18 research into puffing behavior.

19 Q. Why?

20 A. Because we were finding answers to  
21 questions people were asking in the external  
22 world and also finding out what was wrong with  
23 the questions they were asking.

24 Q. What were people asking in the  
25 external world?

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1 A. Oh, they were asking questions about the  
2 way people smoked and hypothesizing certain  
3 answers which I knew to be wrong. For example,  
4 they were suggesting that people put their  
5 fingers over the holes in ventilated cigarettes  
6 to increase the delivery of the smoke.

7 Q. Who was saying that?

8 A. One read it in the press. One -- Some  
9 antismoking group would accuse the tobacco  
10 companies of not having reduced tar and  
11 nicotine, but only have put the holes in there.  
12 It was pointed out if you put your fingers over  
13 the holes, the tar and nicotine delivery would  
14 be higher than the numbers on the packs.

15 Q. And what did you discover about  
16 that?

17 A. I discovered -- Do you have a  
18 cigarette? Any of you? You have a cigarette.  
19 Here's my cigarette now, and you stick it in  
20 your mouth. You take a puff on it. Most people  
21 go (witness indicates). They don't even have  
22 their fingers on the cigarette, much less over  
23 the holes. And you can quantify that. And even  
24 if they did have their fingers over the holes,  
25 you can now smoke some cigarettes in a smoking

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1 machine with the same percentage of holes  
2 covered as fingers would have covered and seen  
3 what the delivery was, et cetera, et cetera, and  
4 we discovered that, A, people didn't always have  
5 their fingers on the cigarette when they puffed  
6 and, B, even if you masked the cigarette on the  
7 few cases or few people who would, in fact, not  
8 take their fingers off the cigarette on some  
9 puffs they would get less tar and less nicotine  
10 than the numbers on the packages or if -- To  
11 the extent it was any different than that, it  
12 would be a rounding error; that is, instead of  
13 getting six milligrams they would get 6.2, and  
14 we know the answer to this question and just  
15 waited for somebody to bring the topic up in  
16 firmer fashion.

17 Q. Did someone bring it up in firmer  
18 fashion?

19 A. No. Eventually they abandoned the  
20 question because some -- Some apparently  
21 knowledgeable person in the external world made  
22 some of the same observations we had made and  
23 realized they were talking nonsense.

24 Q. That's interesting. Did you --  
25 Have you read the papers in the last few weeks

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1 about the F. T. C. changing the manner in which  
2 they measure tar and nicotine?

3 A. No.

4 Q. What other questions were people  
5 asking in the external world that were  
6 incorrect? Is that the one you basically had in  
7 mind when you said that people were asking the  
8 wrong questions about why people smoked?

9 A. Well, in any science, sometimes it isn't  
10 the answers to the question that's most  
11 important. It's the question itself. You have  
12 to learn what question to ask, and that's a very  
13 tricky and time-consuming job that leads to a  
14 lot of that -- a lot of what we call your own  
15 expertise. If I were to be asked a question by  
16 anyone in Philip Morris management, the question  
17 would undoubtedly be asked in a way that  
18 couldn't be answered in the laboratory. It  
19 would have to be transformed into some fashion  
20 it could be answered in the laboratory, and then  
21 if I came up with an answer I would come up with  
22 an answer to a very different question than the  
23 one I had been asked.

24 Q. Did you have that experience  
25 where Philip Morris management asked you a

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1 question you couldn't answer in the laboratory?

2 A. No. They didn't ask very many  
3 questions. It was rare.

4 Q. Did you ever in your tenure at  
5 Philip Morris have meetings with any management  
6 from New York or Philip Morris?

7 A. Yes.

8 Q. On more than one occasion?

9 A. Yes.

10 Q. On many occasions?

11 A. Yes.

12 Q. Was this during your time that  
13 you were at the behavioral research center?

14 A. Some.

15 Q. And some were after?

16 A. Yes.

17 Q. POL?

18 A. Yes.

19 Q. And you came to POL in about  
20 1984?

21 A. Yes.

22 Q. You weren't employed by POL prior  
23 to 1984?

24 A. Employed by?

25 Q. Right. By POL?

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1 A. I wasn't employed by POL. POL is a  
2 subdivision of Philip Morris.

3 Q. You were always employed by  
4 Philip Morris.

5 A. Correct.

6 Q. What were you doing at POL when  
7 you came -- What did you do at POL when you  
8 came in 1984?

9 A. The company had recently made a very  
10 unwise decision about manufacturing a new  
11 product. They were very sensitive to consumer  
12 response to new products. It had an intense  
13 effort that had been going on for many years  
14 which Bill Dunn originally had instigated. In  
15 this particular case they had not conducted the  
16 type of research which would have revealed that  
17 a new product had major problems and shouldn't  
18 have been pursued any further, and they pursued  
19 it further, and it cost them money, and there  
20 were some bruised egos, I'm sure.

21 Q. What did you do at POL when you  
22 came in 1984?

23 A. My first job was to set up a kind of a  
24 subjective evaluation facility in which we had  
25 focus groups of individuals smoke and test and

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1 discuss cigarettes and cigarette-related  
2 issues. In person. With a researcher employed  
3 by Philip Morris usually running the focus  
4 group. It was one of our own staff. One of the  
5 best we had was a woman named Louise Wu, W-U,  
6 and she ran the focus groups for us.

7 In this particular case the  
8 problem had been that the company had been  
9 talking to smokers and decided it would be a  
10 good idea if we made a nonmenthol cigarette that  
11 had cool smoke, but no menthol flavor. They had  
12 sent some samples out and tested the idea and so  
13 on, and they didn't quite do the job right,  
14 because they didn't discover until they were  
15 well along in the making of this product that  
16 menthol smokers didn't like it because it wasn't  
17 menthol and regular smokers didn't like it  
18 because it was cool and reminded them of  
19 menthols. It got negatived and negatived on  
20 both sides where they hoped it would get a  
21 positive response.

22 That was the kind of a thing that  
23 we were intended to discover and alert  
24 development people to so that they would know  
25 that further work in such an area was not

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1 fruitful and their time should be spent in some  
2 other way.

3 Q. What else did you do at the  
4 product opinion laboratory? Did you essentially  
5 run focus groups? Is that what your job was?

6 A. I had staff that did that sort of thing.

7 Q. What did you do?

8 A. I supervised the staff. We did some  
9 other research in which we would have consumers  
10 say that they liked or disliked this product as  
11 opposed to that product, and consumers were  
12 chosen carefully. I also helped bring about the  
13 development of the procedures by which we  
14 discovered what consumers wanted by means of  
15 certain computer programs.

16 Q. When you say consumers wanted it  
17 what do you mean?

18 A. I might ask you what kind of an  
19 automobile you wanted to drive next time and  
20 find out the percentage you wanted convertible  
21 or a sedan or a car that was painted red or some  
22 other variable of this character. Now twist  
23 your mind and think of the same question about  
24 cigarettes; Did you want something with a filter  
25 or without a filter, long, short, narrow,

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1 stubby, printed papers, plain white papers,  
2 white filter, tan filter. Whatever.

3 Q. In the course of those focus  
4 groups did smokers report to you reasons why  
5 they believed they were smoking?

6 A. I often asked that question. Not  
7 necessarily in a focus group, however.

8 Q. When did you ask it?

9 A. In a one-on-one interview.

10 MR. SHUB: Let me mark the first  
11 exhibit, please.

12 (Exhibit Ryan-1, marked for  
13 identification.)

14 Q. Mr. Ryan, please take your time  
15 in looking through this exhibit. I will tell,  
16 however, I'm going to be focusing on Paragraph 2  
17 of this exhibit, but you're free to read this  
18 exhibit, all or part of it, or however much you  
19 want to read about it. It is Bates-stamped  
20 2058443854 through 3859. Ryan-1.

21 Let's focus on Paragraph 2.  
22 Again, just in the interest of time, because I'm  
23 not really going to ask you anything about any  
24 other part of the article.

25 Do you see Paragraph 2? It says

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1 Number 2 in that first full paragraph? Could  
2 you just read that to yourself?

3 A. It begins, Most smokers are very content  
4 with their current brand?

5 Q. Right. Okay. You're done with  
6 what I need you to read.

7 This is a memo you wrote to Myron  
8 Johnston. Is that correct?

9 A. Correct.

10 Q. You wrote it on or about February  
11 24, 1987. Is that correct?

12 A. Yes.

13 Q. Do you recall writing this memo?

14 A. Yes.

15 Q. This was a memo based on  
16 interviews that were conducted with smokers,  
17 former smokers and current smokers, of Marlboro  
18 cigarettes?

19 A. Yes.

20 Q. Did you conduct these interviews  
21 yourself?

22 A. I did.

23 Q. So the statements of the smokers  
24 that you write about in this memo are statements  
25 that were made to you directly. Is that

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1 correct?

2 A. Yes.

3 Q. Let's look at what's been marked  
4 as Number -- Point 2 of this memo. You have a  
5 Number 1 and a Number 2. You'll see about  
6 halfway down the paragraph here you're talking  
7 about smokers. You say, Most also felt guilty  
8 about being smokers and many excused themselves  
9 by explaining that they were, quote, addicted,  
10 end quote, to use their specific word, rather  
11 than my own, including a Carlton-soft pack  
12 smoker. A few suggested this was psychological  
13 rather than a biochemical phenomenon. As used,  
14 the phrase, quote, addiction, end quote, was  
15 somewhat of a cop-out, for it removed control of  
16 the behavior from their will power and allocated  
17 it to a chemical in the smoke. It became a  
18 handy alibi to account for their failure to quit  
19 in the face of criticism.

20 Did you see where I was reading?  
21 Did I read that correctly?

22 A. Yes.

23 Q. What did you mean when you said,  
24 As used, the phrase "addiction" was somewhat of  
25 a cop-out, for it removed control of their

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1 behavior from their will power and allocated it  
2 to a chemical in the smoke. What did you mean?

3 A. I meant that the smokers were telling me  
4 that it wasn't because of their failure of will  
5 power to give up cigarettes that they hadn't  
6 given up, but because they couldn't give them  
7 up, and if those are two statements that are  
8 identical, I intended them to be that way,  
9 because that's in the sense that they were  
10 used.

11 In other words, if you ask  
12 somebody to explain their smoking behavior and  
13 they said, I smoke a lot and I don't want to  
14 give them up, and then you asked another  
15 question and got back the same answer, I smoke a  
16 lot and I don't want to give them up, you  
17 wouldn't consider you had learned anything new  
18 out of this situation, would you? You've got  
19 the same answer back twice.

20 So when they said, I'm addicted,  
21 they had been using a slang term as they thought  
22 the word "addicted" was to be employed, which  
23 said, I smoke a lot and I don't want to give  
24 them up. That's all they said. It wasn't  
25 really an explanation, therefore, was the thrust

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1 of the paragraph, and I think down here later  
2 they often said, I have a strong smoking habit  
3 in the sense that we in psychology use the word  
4 as a sloppy and convenient shorthand to describe  
5 a response under the control of a specific  
6 stimulus situation.

7 Q. Are you reading right -- from  
8 that?

9 A. Yeah.

10 Q. Where is --

11 A. Right under the next paragraph. It  
12 continues the thought that you brought up a  
13 minute ago when you read right down through this  
14 section.

15 Q. Let me ask you this question.

16 A. They went -- To finish my answer, if the  
17 term "habit" is used to describe a behavior,  
18 it's logically inappropriate to employ it as the  
19 explanation of a behavior. If John plays 18  
20 holes of golf every evening after work and  
21 between 18 and 54 holes every Saturday and  
22 Sunday, we might describe him as a golf nut, but  
23 if asked why does he play so much golf we  
24 wouldn't have been likely to answer that he's a  
25 golf nut. And, yet, that's really what's going

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1 on here.

2 Q. Are you here equating the smoking  
3 of cigarettes on a regular basis with one's  
4 desire to play golf on a regular basis?

5 A. Well, we might make that attribution, but  
6 I'm not trying to do so here. I'm only trying  
7 to here point out that to explain a behavior by  
8 merely repeating a description of the behavior  
9 is a waste of our effort.

10 Q. In 1987 was it your view, Mr.  
11 Ryan, that smokers that could not give up  
12 cigarettes were lacking in sufficient will power  
13 to do so?

14 A. I very seldom use the phrase "will  
15 power." I'm a research psychologist. That was  
16 one of those taboo phrases.

17 Q. You used it here.

18 A. I used it here because I was talking to a  
19 bunch of people in Philip Morris and they would  
20 understand what I meant if I said that. In  
21 general, however, I'm going to agree with your  
22 question. I did feel that way in 1987.

23 Q. Do you feel that way today?

24 A. Yes.

25 Q. Therefore, do you not look at

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1 smoking as a biochemical dependence?

2 A. I do not.

3 Q. You don't subscribe to that  
4 theory?

5 A. Let's not -- Let's not put me with both  
6 feet in one camp or another. I recognize that  
7 there is quite possibly some biochemical  
8 attraction in the smoke, but I think there are  
9 many other reasons for smoking, and many of them  
10 much more important than that biochemical factor  
11 like nicotine. As for, example, my own behavior

12 **REDACTED**

13

14 Q. Are you aware that various  
15 professional associations in the medical and  
16 scientific community have come to the conclusion  
17 that nicotine is an addictive drug?

18 A. Only to the extent that I've read it in

19 **REDACTED**

20 television. I have not read it in any of the  
21 edited journals.

22 Q. Is it your opinion that  
23 biochemical dependence prevents smokers from  
24 quitting?

25 A. No. It is not.

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1 Q. Is that based on research you  
2 conducted at Philip Morris?

3 A. No.

4 Q. That's your own personal opinion?

5 A. That is correct.

6 Q. Did you research --

7 A. That was what you asked, wasn't it?

8 Q. Did you research the question at  
9 Philip Morris about whether biochemical  
10 dependence prevents people from quitting  
11 smoking?

12 A. I never manipulated biochemical  
13 dependence. Never.

14 Q. Were you aware at Philip Morris  
15 of whether the issue of whether biochemical  
16 dependence prevents people from quitting who  
17 have ever studied at Philip Morris?

18 A. I was never aware of such a thing.

19 Q. Were you aware of whether --

20 A. I never heard the phrase while I was  
21 there, biochemical dependence.

22 Q. Did you ever hear the phrase  
23 "Nicotine is addicted" while you were at Philip  
24 Morris?

25 A. Yes.

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1 Q. And who -- How did you hear  
2 that?

3 A. I heard occasional 26-year-old smokers  
4 say so.

5 Q. Did you ever hear anyone at  
6 Philip Morris say that?

7 A. Dr. Dunn occasionally said things that  
8 flirted with that idea, but it was not a topic  
9 which we discussed.

10 In fact, during the years we're  
11 looking at here we really didn't pay anywhere  
12 near as much attention to nicotine as people  
13 would think. Our major concern was -- was the  
14 residue of the tar derby, as we called the  
15 competitive race to lower the F. T. C. tar of  
16 our products at a time when we were being called  
17 upon to do so by the F. T. C.. The surgeon  
18 general, and so on, and we varied the tar of  
19 cigarettes, and things that varied with tar such  
20 as dilution or filtration also varied the  
21 nicotine. So it happened conjointly.

22 MR. SHUB: Okay. I think this is  
23 a good time to take a break for lunch. We will  
24 do that now.

25 THE VIDEOGRAPHER: We're going

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1 off the record at 12:38:22.

2 (Recess.)

3 THE VIDEOGRAPHER: This begins  
4 Tape Number 2 in the deposition of Frank Ryan.  
5 The time on the screen is 1:49:03. We're back  
6 on the record.

7 Q. Good afternoon, Dr. Ryan. Before  
8 we broke for lunch we were talking about some of  
9 the projects that you were proud of, and we  
10 mentioned the puffing behavior project, which,  
11 actually, I think involved more than one  
12 project. It was puffing behavior. Several  
13 different projects involved in that puffing  
14 behavior studies. Is that correct?

15 A. Yes. That's correct. And if I remind  
16 you, it's Mr., not Doctor.

17 Q. Excuse me. Mr. Ryan. There were  
18 various puffing studies. Correct?

19 A. Yes.

20 Q. Whose idea was it to engage in  
21 puffing studies?

22 A. Dr. Dunn was among those who developed  
23 the procedure early, and when I discovered it I  
24 insisted we do more research of this type. So I  
25 guess you would say it was mine. It was in the

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1 sense of our meeting here.

2 Q. Did you feel you had a fair  
3 degree of autonomy in terms of what you wanted  
4 to studies at Philip Morris?

5 A. Yes.

6 Q. And that you found to be one of  
7 the more rewarding aspects of the job?

8 A. Yes.

9 Q. Let's go back for a minute to the  
10 closing of labs. Did you ever speak to Paul  
11 Miehle about the lab being closed?

12 A. Not that I can recall anything about. It  
13 was undoubtedly something that occurred because  
14 it would have been just a few of us in this  
15 small place and the project has been bandied.

16 Q. Did anyone, including  
17 Dr. Hausermann, or tell you why it had to be  
18 disbanded so quickly?

19 MR. DOLUISIO: Objection. Asked  
20 and answered.

21 A. No.

22 Q. Did you in your mind ever think  
23 that one of the reasons why it might --

24 MR. SHUB: Strike that.

25 Q. One of the reasons it was

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1 disbanded is because management at the company  
2 was fearful of these studies being made public?

3 MR. HURWITZ: Objection. Calls  
4 for speculation. Asked and answered. You've  
5 asked numerous questions about what he thought  
6 about the closing.

7 MR. SHUB: I haven't asked this  
8 one.

9 MR. HURWITZ: You've asked him  
10 what he thought about it.

11 MR. SHUB: I haven't asked him  
12 this one.

13 MR. HURWITZ: You've asked him  
14 what he thought about it, and it covers this  
15 issue. He's already answered what he thought  
16 about it.

17 Q. You can answer.

18 MR. HURWITZ: You can answer.

19 THE WITNESS: Now?

20 MR. HURWITZ: Sure.

21 A. Please repeat the exact phraseology you  
22 employed there.

23 MR. SHUB: We'll have the court  
24 reporter do that for us.

25 (The last question is read back

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1 by the reporter.)

2 A. Well, there was nothing of my research  
3 that was going to be made public that would in  
4 any way have hurt the company. I didn't  
5 speculate on this topic any further than that.  
6 I knew of nothing that would prevent me from  
7 giving a blanket no to the question as you  
8 asked.

9 Q. Did the issue of how Philip  
10 Morris studies could be used in lawsuits against  
11 Philip Morris ever come up during your tenure at  
12 the company?

13 MR. HURWITZ: Instruct the  
14 witness not to answer the question to the extent  
15 it asks you to disclose information you may or  
16 may not have -- you may have received from  
17 lawyers while you were at Philip Morris.

18 MR. SHUB: Let me just add  
19 something to that blanket and improper  
20 instruction.

21 Q. You can answer me even if it  
22 involved legal assistance to the extent yes or  
23 no without revealing the communications you  
24 might have had. So if the answer is, yes, we  
25 talked to the lawyers about that, you're allowed

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1 to answer that question and your counsel would  
2 be improper to instruct you otherwise?

3 MR. HURWITZ: My instruction  
4 stands.

5 MR. SHUB: What's your  
6 instruction, don't answer even yes or no about  
7 that?

8 MR. HURWITZ: To the extent if  
9 the answer is yes and the yes refers to a  
10 discussion with lawyers, I'm instructing you not  
11 to answer the question. If the answer is no you  
12 can answer no.

13 A. The answer is no unequivocal.

14 Q. That was never an issue that was  
15 raised at the company when you were there?

16 A. No.

17 Q. What other -- Other than the  
18 puffing studies, what other projects were you  
19 particularly proud of that you worked on at the  
20 behavioral research center?

21 A. We looked into the topic of compensation.

22 Q. Does that mean you looked in  
23 terms of nicotine compensation? Is that what  
24 you mean?

25 A. There's actually tar compensation as in

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1 salary, but not that meaning.

2 Q. I didn't hear what you said. Did  
3 you say --

4 A. Tar.

5 Q. Tar compensation. Oh. All  
6 right.

7 Q. What about nicotine compensation?

8 A. No studies that were directed solely  
9 towards that. There may have been something or  
10 other that was produced, but I don't remember  
11 ever looking for it, because we didn't look for  
12 nicotine variability. We looked for tar. All  
13 of our emphasis was on the taste of the smoke.

14 Q. And nicotine doesn't contribute  
15 to the taste, does it?

16 A. Yeah, it does. Some.

17 Q. Why then wouldn't you look at  
18 nicotine if it contributes to taste?

19 A. Because we get the whole picture of it.  
20 It's the whole smoke that's involved here.

21 Q. Does nicotine play a role in  
22 taste?

23 A. Yes. I suspect so. The procedures were  
24 not well-recognized at the time. We weren't  
25 experts on taste, period. Very difficult area

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1 of research. Taste research.

2 Q. Did you ever become an expert on  
3 taste at Philip Morris?

4 A. I never considered myself an expert on  
5 it. No.

6 Q. Are you familiar with the  
7 titration hypothesis?

8 A. The titration hypothesis is a variation  
9 of what I call compensation.

10 Q. You never heard of titration  
11 hypothesis expressed in terms of nicotine  
12 intake?

13 A. Could perhaps have been expressed as  
14 such, but it would have been as an afterthought  
15 within a research project.

16 Q. Did you ever remember researching  
17 optimal tar and nicotine levels?

18 A. I remember that such research was done --  
19 for the most part done by someone else.

20 Q. But that the company was looking  
21 to see what the optimal tar and nicotine levels  
22 could be. Correct?

23 A. You --

24 MR. DOLUISIO: I'm going to  
25 object to that.

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1 MR. SHUB: What's your objection,  
2 counselor?

3 MR. DOLUISIO: What do you mean  
4 by "optimal"?

5 MR. SHUB: It's vague?

6 MR. DOLUISIO: Yes.

7 MR. SHUB: The word "optimal"?

8 MR. DOLUISIO: The word "optimal"  
9 is vague.

10 MR. SHUB: I'm glad you got that  
11 objection in.

12 Q. You can answer.

13 A. You got to recognize, we were like any  
14 other subgroup within --

15 Q. When you say "we" do you mean  
16 behavioral research?

17 A. Those of us in behavioral research as  
18 individuals now were like any others group of  
19 individuals assigned in some office. We had to  
20 be able to justify our existence sometimes, and  
21 so we might come up with a research project that  
22 sounded pretty good and go and do it, but it  
23 wasn't something the company was actively  
24 interested in. They weren't -- You know, there  
25 weren't calls every Friday afternoon, What did

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1 you find this week about such-and-such? We  
2 didn't have that sort of thing. Did not occur.

3 Q. Weren't you the expert in  
4 deciding what the company should be looking at?  
5 They were looking to you guys in behavioral  
6 research to tell them what they should be  
7 looking at. Not vice versa. Right?

8 MR. HURWITZ: Objection.

9 A. To a certain extent. Yes, but only to a  
10 certain extent.

11 Q. The fact they weren't calling  
12 every Friday afternoon with the results didn't  
13 mean that the project wasn't important, did it?

14 MR. HURWITZ: Objection.

15 A. Those people who had projects that were  
16 important were called every Friday night.

17 Q. Can you give me an example of one  
18 person you know that was working on a project  
19 that the company considered important?

20 A. No.

21 Q. Can you give me an example of one  
22 person you know that was called --

23 A. Regularly.

24 Q. Yes. Who was called at R and D?

25 A. I cannot think of the researcher's name

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1 in development now.

2 Q. What area was he in?

3 A. New product development.

4 Q. Why do you believe he was called  
5 often? What was management so interested in  
6 what he was doing?

7 A. What was the difference between --

8 Q. Why was management so interested  
9 in what he was doing?

10 A. Because he was developing a new product.  
11 New cigarette.

12 Q. What were you doing?

13 A. I was sitting in the back room playing  
14 with a bunch of people who would come in and  
15 smoke my cigarettes and tell me this or that  
16 about them, but I wasn't -- The output was not  
17 going to produce another Marlboro or another  
18 Virginia Slims or anything like that. Nor did I  
19 ever convince myself that it would.

20 Q. Wasn't what you found out,  
21 though, used in developing new products? The  
22 market research you were conducting was then  
23 discussed with the development people, wasn't  
24 it?

25 A. Now you're talking about the market

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1 research. I thought we were still in 1970 back  
2 in the behavior research section of my life.

3 Q. You're right. That's a fair --

4 A. When we got to market research there were  
5 things that we did that were germane and  
6 pertinent, and I remember very well promising  
7 data by Friday on such-and-such and developing  
8 computer programs that would enable us to let  
9 consumers punching answers into the computers so  
10 we could feed the information quickly to our  
11 developers and to our management. This was not  
12 that unusual later. But not back when I was in  
13 behavior research.

14 Q. When you were at behavioral  
15 research are you saying you didn't consider the  
16 work you were doing to be important?

17 A. Sure, I considered it to be important.  
18 Everybody wants to think that way.

19 MR. HURWITZ: Do you mean  
20 important in relation to product development or  
21 important in that he believed it to be important  
22 or important to management? You've got to tie  
23 this together.

24 MR. SHUB: Mr. Hurwitz, let me  
25 tell you something. This is my examination. If

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1 you don't like my examination, that's fine, but  
2 don't tell me I have to tie anything together.

3 MR. HURWITZ: Well, it's unfair  
4 to ask the witness an open-ended question.

5 MR. SHUB: Mr. Hurwitz, object;  
6 vague. Don't put sermons on the record and  
7 don't critique my examination on the record  
8 either, please.

9 Q. You can answer.

10 A. To replay my answer, yes. I like to  
11 think that what I was doing was important.

12 Q. Was it your understanding that  
13 management at Philip Morris thought what you  
14 were doing was important?

15 A. No.

16 Q. Did Dr. Dunn what you were doing  
17 was important?

18 A. On occasion, but not always.

19 Q. What projects do you have in your  
20 mind when you answer that question that Dr. Dunn  
21 did not think it important what you were doing?

22 A. I don't recall. I was making a statement  
23 about a general, did he always think that what I  
24 was doing was terribly important, and the answer  
25 is no. I don't think he always felt that way.

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1 MR. SHUB: Let's introduce these  
2 next two as Ryan-2 and 3.

3 (Exhibits Ryan-2 and Ryan-3,  
4 marked for identification.)

5 Q. Mr. Ryan, I'm placing before you  
6 what the court reporter has marked as Ryan  
7 Exhibits 2 and 3. Two is 1003287836 through  
8 7848 and the second one is 2023063286 through  
9 3296.

10 Q. Let me direct your attention  
11 because we're only going to focus on various  
12 aspects of these documents. Let's look at  
13 Exhibit 38 first. I'm sorry. Exhibit 2.

14 A. Yes.

15 Q. Do you see up there some  
16 handwriting that says, First draft of annual  
17 report to Philip Morris board by V. P. for  
18 research and development considered too  
19 technical? Do you see that handwritten?

20 A. I do.

21 Q. Is that your writing?

22 A. No.

23 Q. Do you know whose writing it is?

24 A. I'm not an expert on handwriting, but I  
25 suspect that's Bill Dunn's from what follows.

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1 Q. Let's look at Exhibit 3. It says  
2 up there, Ryan, Dunn, alternate-third version  
3 board of directors delivered with only minor  
4 changes, Fall, 1969. Do you see that up at the  
5 top?

6 A. Yup.

7 Q. Is that your handwriting?

8 A. No. Same handwriting that we had on the  
9 first one.

10 Q. Looking through these documents;  
11 specifically for the moment at Exhibit 3, do you  
12 recall having any part in the drafting of this  
13 document?

14 A. Yes.

15 Q. And you did play a part in  
16 drafting it?

17 A. I read it after it was typed, and on Page  
18 3 there is some marginal notes that are in my  
19 handwriting.

20 Q. Oh. Good. So those are your  
21 handwritings?

22 A. On the left where it says, Emphasize  
23 smoker insensitivity, see menthol threshold,  
24 too, and Add puff volume.

25 Q. I see. Did Dr. Dunn ask you to

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1 review this?

2 A. Yes.

3 Q. And give him your comments?

4 A. Yes.

5 Q. And if there was something you  
6 disagreed with in the document would you have  
7 alerted Dr. Dunn to that?

8 A. I've been there for about a year. I  
9 might have alerted him to it. Alerted to my  
10 boss to the fact he was saying something I  
11 disagreed with, or I might not.

12 Q. Let's look at Page 10 of the  
13 document.

14 A. Okay. Page 10.

15 Q. At the top it says in that  
16 paragraph, We are of the conviction in view of  
17 the foregoing that the ultimate explanation for  
18 the perpetuated cigarette habit resides in the  
19 pharmacological effect of smoke upon the body of  
20 the smoker, the effect being most rewarding to  
21 the individual under stress.

22 Do you see that?

23 A. I see.

24 Q. And are there handwritten edits  
25 on that?

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1 A. No.

2 Q. No. On that page. On other  
3 parts -- other paragraphs of that page?

4 A. Yes.

5 Q. And those are yours. Right?

6 A. The ones in the third paragraph are mine,  
7 and I think the ones in the second and fourth.

8 Q. But there's no edits in that  
9 first paragraph, is there?

10 A. No.

11 Q. And that's because you didn't see  
12 any reason to change anything that was in that  
13 paragraph. Correct?

14 A. Correct. He wanted to say it, he could  
15 say it.

16 Q. And you didn't disagree with him,  
17 did you?

18 A. Excuse me?

19 Q. You didn't disagree with it.

20 A. I don't know. What was the final?

21 Q. My question to you is, when you  
22 read that paragraph you did not disagree with  
23 it?

24 A. Not in print. No.

25 Q. What do you mean, Not in print?

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1 A. I didn't come right out and say, Bill,  
2 You're biting off more than you can chew here.  
3 This statement assumes something that may not be  
4 correct. I didn't say that.

5 Q. Is that what you believed?

6 A. I don't know what I believed at the  
7 time. I was too new at the business to have  
8 much to say about the pharmacological effect of  
9 smoke upon the body of the smoker.

10 Q. If you read this document in

11 19 --

12 A. 69.

13 Q. 90?

14 A. 1990?

15 Q. In 1990 after being there for  
16 that many years, would you disagree with that  
17 statement? Say this was presented to you in  
18 1990 and Dr. Dunn asked you to comment on that  
19 paragraph?

20 A. I never would have let him say the  
21 ultimate explanation for the habit resides in  
22 the pharmacological effect.

23 Q. Why is that?

24 A. I didn't believe it then. I don't  
25 believe it now.

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1 Q. Are you quibbling with the word  
2 "ultimate"?

3 A. Yes.

4 Q. Or is it if it said the  
5 explanation for the habit resides in the  
6 pharmacological effect, would that be an  
7 appropriate statement?

8 A. I believed there probably are a variety  
9 of factors involved, and I would permit anybody  
10 who can make that point come across in what he's  
11 writing should go ahead and do it, but to --  
12 These ultimate explanation notion are --  
13 That's -- I'm too sceptical to ever believe  
14 anything like that. So I still wouldn't accept  
15 that.

16 Q. But certainly when you read it  
17 you accepted it. Correct?

18 A. I went by it.

19 Q. Okay.

20 A. I could not disagree with the effect;  
21 quote, the effect being most rewarding to the  
22 individual under stress, end quote. If there  
23 was some effect it would be then.

24 MR. SHUB: I'm going to have the  
25 court reporter mark next an exhibit as Ryan

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1 Exhibit 4.

2 (Exhibit Ryan-4, marked for  
3 identification.)

4 MR. SHUB: Why don't we -- Off  
5 the record for a moment.

6 THE VIDEOGRAPHER: We're going  
7 off the record at 2:16:41.

8 (Recess.)

9 THE VIDEOGRAPHER: The time on  
10 the screen is 2:17:53. We're back on the  
11 record.

12 Q. The court reporter has marked and  
13 put before you Ryan Exhibit 4 bearing the Bates  
14 Stamp 000048770 to 794. It's a document that I  
15 believe was written by you called Laboratory  
16 Produced Anxiety and Smoking Behavior: Puff  
17 One. Do you recognize this document?

18 A. Yes.

19 Q. Is that your signature on the  
20 first page which is, Written by?

21 A. It is.

22 Q. Which means you wrote this  
23 document?

24 A. Yes.

25 Q. And could you explain what this

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1 studies, Laboratory Produced Anxiety and Smoking  
2 Behavior: Puff One, was about?

3 A. Yes. I'll make reference to a comment I  
4 just made in Ryan 3 on Page 10 in which I had  
5 said that the ultimate explanation, blah, blah,  
6 blah, for effect of smoke upon the body of the  
7 smoker, the effect being most rewarding on the  
8 individual under stress, and I kind of emphasize  
9 that. That was Helmut Wakeham's comment that  
10 Bill Dunn was editing in that. We can put that  
11 aside and forget it for a moment. But this is a  
12 research project which deals with anxiety and  
13 stress and smoking behavior, and one of the  
14 reasons for conducting it was to see whether  
15 smoking behavior would be related to  
16 laboratory-produced anxiety.

17 Q. What did you find?

18 A. We observed no difference in some of the  
19 behavioral cigarette smoking/puffing behavior  
20 variables under conditions when the subjects  
21 were being threatened with receiving a shock and  
22 not receiving a shock so that we either didn't  
23 create differential anxiety in the test or the  
24 behavior we were studying isn't affected by this  
25 variable.

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1 Q. You were administering shocks to  
2 who?

3 A. I had a group of 16 college students who  
4 smoked cigarettes while observing a series of  
5 pictures that they recognized or didn't  
6 recognize. When they were correct they were  
7 rewarded with cash, and when they were incorrect  
8 they got a tone which went beep for a period of  
9 time and then added was an electric shock to the  
10 fingers.

11 Q. Who designed this experiment?

12 A. I did.

13 Q. Was this experiment your idea?

14 A. It was.

15 Q. What were you hoping to  
16 understand from this experiment?

17 A. I was hoping to see that the smoking  
18 behavior, smoking, would change the smoker's  
19 anxiety level, the hypothesis being that somehow  
20 or other the smoke reduced the anxiety that they  
21 were in. They were anxious because they were  
22 waiting to be shocked.

23 Q. Did you find that to be the case?

24 A. They didn't cooperate very well. They  
25 stopped smoking while they were waiting for the

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1 puff to come on instead of taking a puff while  
2 this was happening. In other words, to the  
3 extent we produced any anxiety by sounding this  
4 tone and they knew the end of the tone was going  
5 to come with a shock, they didn't take a  
6 cigarette puff to reduce it. Instead, they just  
7 froze. Some days you get the bear, and some  
8 days the bear gets you.

9 Q. How long did this Puff One  
10 studies go on for?

11 A. How long did it go on? Unless it says so  
12 within here, I really wouldn't recall. They  
13 came to the laboratory five times and there were  
14 16 of them. Probably lasted three to four  
15 weeks.

16 Q. You distributed this to directors  
17 of R and D, various directors there?

18 A. I have to explain the way these things  
19 worked. I gave the paper to Dr. Dunn's  
20 secretary and she said, Oh, We ought to send a  
21 copy of this to so-and-so and so-and-so. And  
22 so-and-so and so-and-so ex officio. Everybody  
23 who had this kind of -- and to so-and-so and  
24 so-and-so and, et cetera, and I would come and  
25 look at the thing and say, Oh, You left Barbara

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1 Hancock off. Put her on that list. But I  
2 wouldn't dream of saying, Take Helmut Wakeham  
3 off. So when you say I distributed it to  
4 everybody on this list, I didn't distribute it  
5 to everybody on the list, except Barbara Hancock  
6 maybe.

7 Q. Did Dr. Dunn approve this  
8 document before it was distributed? Correct?

9 A. Yes.

10 Q. Did Dr. Dunn ever disapprove of a  
11 studies that you wanted to write up?

12 A. Dr. Dunn never disapproved of anything  
13 that reached this level. Never. Of mine.

14 Q.

15

16 A.

17

18

19

20

21

22

23

24

25

A.

REDACTED

REDACTED

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1 Q.

2 A.

REDACTED

3

4

5 Q.

6

7

8

9 A.

10 MR.

11

REDACTED

12

13

14 MR. HURWITZ: It doesn't matter.

15 Q. You see that the introduction on  
16 Page 2, it says, This is the report on the first  
17 of a series of shock-produced anxiety studies.

18 A. Yes.

19 Q. Do you recall any of the other  
20 studies that you did on puffing? Were they  
21 called Puff One, Puff Two, Puff Three, Puff  
22 Four?

23 A. Yes. I don't recall we used the shock  
24 that often thereafter. We were more interested  
25 in puffing per se.

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1 MR. SHUB: Let me introduce the  
2 next exhibit.

3 (Exhibit Ryan-5, marked for  
4 identification.)

5 Q. Mr. Ryan, the court reporter has  
6 placed before you what has been marked as Ryan  
7 Exhibit 5.

8 A. Yes.

9 Q. It's a document Bates-stamped  
10 1003288142 through 161, and I believe it's  
11 another document from the behavioral research  
12 center that you authored?

13 A. Yes.

14 Q. Is that your signature on the  
15 first page?

16 A. It is.

17 Q. And you authored this document in  
18 the normal course of your business activities?

19 A. It is.

20 Q. And did you author Ryan Exhibit  
21 4, which you can pick up on that pile? Was that  
22 also authored during the course of your normal  
23 business activities?

24 A. It is.

25 Q. If we look at the first page of

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1 the document, the objectives of the report says,  
2 To discover who smokes, how they smoke, and why  
3 they smoke?

4 A. Yes.

5 Q. That was basically the guiding  
6 principles for all these studies. Correct?

7 A. Yes.

8 Q. If you look under Completed  
9 Studies it talks about Puff Three?

10 A. Yes.

11 Q. Do you recall the study Puff  
12 Three, chain puffing?

13 A. Yes.

14 Q. Was this your idea to do this  
15 study?

16 A. Yes.

17 Q. What was your objective in the  
18 study?

19 A. I'm looking for the figure in order to  
20 more closely remind me of what happens.  
21 Figure 1.

22 The research which had been  
23 conducted into puffing behavior observed that  
24 first puffs on cigarettes are of a different  
25 volume than later puffs on the cigarettes.

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1 Q. What's puffing volume? Can you  
2 describe what that means, please?

3 A. If you suck on a cigarette you take a  
4 certain amount of smoke, air, et cetera into  
5 your mouth. You have done it with a bottle of  
6 Coke many times. You may have taken a large  
7 swig of Coke or just a little sip.

8 Is the smoker doing an analogous  
9 thing when he consumes his cigarette? Yes. He  
10 takes a large puff early and then less as he  
11 goes along. The cigarette is puffed at with  
12 puff durations; that is, the time he's sucking  
13 on the cigarette. The duration changes. At  
14 first it's long and later it's short. Short  
15 puff, small volume. Long puff, big volume, and  
16 the time between puffs changes. It's relatively  
17 short at the beginning, gets longer towards the  
18 end.

19 In most people on most cigarettes  
20 if they're just allowed to go ahead and puff at  
21 it, period, without any interference or anything  
22 else going on, no stimuli controlling what's  
23 happening, no conversations they have to get  
24 involved in or attention they have to pay to  
25 their computer or anything like that, and these

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1 are systematic changes that occur as the  
2 cigarette is consumed.

3           The question in the back of my  
4 mind is, to what extent is this reduction of  
5 smoke volume from relatively high volume to  
6 relatively short volume attributable to some  
7 satiation of whatever it is the smoker is  
8 smoking for. If he had some kind of a need, is  
9 he smoking less later because he's had these  
10 more -- the larger puffs that he's already taken  
11 in? It's kind of satiated him. If you eat up  
12 all the soup, you might start up with some big  
13 spoonfuls and later end up with small ones.

14           We said, Let's give them a  
15 cigarette that never goes out. Give them a  
16 cigarette. Let them take a puff. Then let him  
17 take another puff and give him another  
18 cigarette, take a puff. Then another puff. A  
19 third cigarette. Kept giving him new cigarettes  
20 each time.

21           Now, in order to measure the  
22 smoking behavior, the cigarette was placed in a  
23 device which made a record of the puff and the  
24 time between it and the time that it lasted.  
25 Without describing the contraption -- which was

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1 about the size of a small tape-recorder box with  
2 a couple of lines that led to a little cigarette  
3 holder that you put the cigarette in and the  
4 suck in your mouth and suck. We were able to  
5 take the output from this and play it into the  
6 computer and the computer would tell us back  
7 the smoke volume was such-and-such.

8 And if you look at the last page,  
9 pages, in here at Figure 1, you'll notice that  
10 across the bottom we have Puff Number varying  
11 from the first to the 13th, and running up the Y  
12 axis we have mean puff volume in milliliters of  
13 smoke.

14 Now, I call your attention to the  
15 first set of connected points which make a line,  
16 and you'll notice that at the beginning there is  
17 relatively high puff volume for this batch of  
18 smokers. There was a different course with  
19 another batch, and then it decreases much as I  
20 just described down to the point where it  
21 becomes 50 milliliters, and we went from 80  
22 millimeters decreased to 50 milliliters. That's  
23 a controlled cigarette being smoked in the  
24 contraption at their own rate.

25 Now, here is what happens if you

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1 look at the series of white dots. We see a  
2 first puff on cigarette and about 70 mark and  
3 drops to 66 for the second puff. Then we give  
4 them a new cigarette that's just been lit and it  
5 goes to 72 or 3 and then drops back down, and  
6 you get a zigzag pattern if you were to connect  
7 those points.

8 So all of the high points in that  
9 line are first puffs on a product, and all the  
10 lower points on that line are second puffs on a  
11 product, suggesting by the fact that they keep  
12 going up and down and up and down and up and  
13 down that it's a puff placement on the rod  
14 that's controlling the volume rather than a  
15 measure of some satiation of some need or  
16 something like that within the smoker.

17 Q. So what did that tell you about  
18 the fact that there was higher volumes taken on  
19 first puffs than there was on later puffs?

20 A. I was getting a measure of a  
21 characteristic of the cigarette rather than the  
22 characteristic of the smoker. That was the way  
23 I was interpreting it.

24 Q. What did you conclude from the  
25 fact that you were getting that kind of measure

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1 of the cigarette rather than the smoker?

2 A. I don't see any conclusion offered in  
3 here.

4 Q. I'm wondering whether you  
5 recollect sitting here today what your  
6 conclusion was?

7 A. No. It's the first time I've looked at  
8 this in 20 years. 23 years.

9 Q. Let me ask you this. You  
10 mentioned in your previous answer or the answer  
11 before this thing about a need cigarette?

12 A. A need. Yes.

13 Q. What do you mean when you say  
14 "need cigarette"? Is that versus a habit  
15 cigarette, as an example?

16 A. Yes.

17 Q. Tell me the difference.

18 A. At this time in the history of psychology  
19 experimental psychologists could be either  
20 strict behaviorists such as B. F. Skinner or  
21 theoretical researchers, and one of the theories  
22 that was important was proposed by a man named  
23 Clark Hull, H-U-L-L. Dr. Hull suggested that  
24 the tendency of any stimulus to elicit a  
25 response was a function of the habit strength of

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1 that stimulus and the current motivational level  
2 of the smoker -- Excuse me. -- of the -- He  
3 didn't say "smoker." He was more apt to be  
4 studying rats or people's eye blinks or  
5 something like that. Current motivational  
6 level. And the motivational level would have  
7 been produced by the manipulation of some drive  
8 such as hunger or thirst and the effects of some  
9 reinforcer like a reward being present in small  
10 quantity or large quantity. Dr. Hull suggested  
11 that we could study the interaction of these  
12 variables that the habit, H, the drive, D, and  
13 the incentive or reward value, K -- Sorry about  
14 that, but it was K -- would interact in some way  
15 and we could design studies with our animals in  
16 which the changes in running behavior, speed,  
17 number of left/right choices in a maze or  
18 something like that ought to vary as we change  
19 these things up and down.

20 All of us who were trained in by  
21 Hull and his students came away from this  
22 experience ready to look at any behavior that we  
23 observed as a function of two factors anyway;  
24 one, a learning factor, a conditioned response  
25 component; and, second, a drive factor, a

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1 motivational response. A motivational component  
2 and perhaps, as I say, an incentive as well, and  
3 if we had someone who knew how to make a  
4 response and was very motivated we gave vigorous  
5 response out of him. If we knew somebody who  
6 was -- knew how to make the response and wasn't  
7 very motivated, we get a wishy-washy halfhearted  
8 response, and if you didn't know how to do it  
9 very well, no matter how motivated you were, you  
10 weren't going to give us a very strong  
11 response. You might, in fact, make a wrong  
12 response.

13                   That makes intuitive sense as you  
14 think of it now, and you've got to think of it  
15 now that way because this was the frame of mind  
16 that I had when I sat down to look at at people  
17 who were smoking cigarettes. Some of these  
18 cigarettes I thought might be determined by some  
19 kind of a need to smoke, and I didn't have to  
20 specify how this need was to be created. Let's  
21 just say there is one, and others were going to  
22 be smoked just because they were automatically  
23 consumed in the presence of a certain stimulus.  
24 By walking into the conference room, there's  
25 nobody here yet. I'm the only one at the

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1 table. Bang. Out comes a cigarette and I smoke  
2 it. They might not want one five minutes  
3 before. I have those, and I have the others,  
4 and I think the two types of smoking behavior  
5 seem to make the total smoking experience.

6 Q. Were the need cigarettes in your  
7 mind cigarettes that the body needed out of any  
8 kind of chemical dependence?

9 A. It wasn't necessary to make that  
10 assumption.

11 Q. I'm asking whether that  
12 assumption was in your mind, if a need cigarette  
13 meant the body pharmacologically needed the  
14 cigarette?

15 A. That would be a partial component of  
16 need, but there could be other psychological  
17 needs you might have.

18 Q. But that was certainly one in  
19 your mind?

20 A. That was one that I was ready to look  
21 at. Yes.

22 Q. You'll see on Page 2 a Puff Four  
23 study. Puffing behavior at 30- and 60-second  
24 puff intervals?

25 A. Uh-huh.

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1 Q. Do you recall what the objective  
2 of that study was?

3 A. I was testing the possibility that the  
4 strange up-and-down puff behavior we just  
5 observed was due to the 60-second interval, and  
6 to test that we had a group of -- very small  
7 group of students make a ten-puff chain of five  
8 cigarettes, taking two puffs on each one at 30-  
9 second intervals and 60-second intervals, and  
10 when we compared that with their smoking  
11 behavior on their own brand we go to Figure 2.

12 We will see that when taking  
13 eight puffs on one cigarette, at 60 seconds we  
14 saw a reduction in the smoke volume, which would  
15 be typical for any cigarette, and when we went  
16 to a 30-second interval we got about the same  
17 figure. See the two straight lines that are  
18 connecting the points. About the same set of  
19 figures, and then we had some in which we had  
20 them taking only two puffs on the cigarette. A  
21 first puff, a second puff. Then a new  
22 cigarette. A first puff, second puff. A new  
23 cigarette. So they got a total of 10 puffs on  
24 their cigarette, but it didn't look like the  
25 picture down below at all. Instead, as again,

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1 it zigzagged back and forth, up and down,  
2 indicating that it was a puff location  
3 phenomenon that was important there. To me.

4 And I concluded that most of the  
5 volume changes were attributable to the duration  
6 of the puff, and puff was -- plot of the  
7 durations so closely resemble the volume figure  
8 then I didn't bother to reproduce it here.

9 MS. BRACHTL: Can you read back  
10 the last answer, please?

11 (The last answer is read back by  
12 the reporter.)

13 Q. Can you explain what you mean?

14 A. I'm really not telling you anything new  
15 in that statement. I'm just rephrasing what  
16 I've already showed you in Figure 1. The key  
17 point was first puff or second puff. First,  
18 second. First, second. Didn't make any  
19 difference what the intervals were.

20 Q. Let's look at the next study,  
21 Puff 5. Puffing behavior changes on cigarettes  
22 cut to different lengths. This was also a study  
23 you conducted?

24 A. Yes.

25 Q. What was your objective of this

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1 study?

2 A. Some elaboration on some research already  
3 conducted. We had found something out, and now  
4 we wished to look further into it.

5 Q. What did you find out and what  
6 did you wish to look into?

7 A. What we had found out was what we had  
8 referred to in the prior studies in which the  
9 first and second puffs were producing the  
10 zigzagging patterns of volume, and now what we  
11 did was cut the cigarettes to different lengths  
12 to see the -- what effect this would have on  
13 the smokers' behavior. If we took a puff on  
14 a -- If we took a first puff on a  
15 59-millimeter-long cigarette how would that  
16 compare to a first puff on an 85-millimeter  
17 cigarette, and if we look at the right-hand  
18 section of Figure 3, Figure 3 shows butt length  
19 at time of puff and the right-hand side second  
20 of this figure, butt length at time of puff, and  
21 you'll see the first puffs on the cigarette  
22 which are the top points in each of the  
23 connected lines were relatively similar. Second  
24 points, relatively similar, et cetera.

25 Q. So that the butt length didn't

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1 matter?

2 A. Didn't seem to matter as much as you  
3 would think. There was something to do --

4 Q. What was the overall purpose of  
5 these puffing studies? Why would you want to  
6 know whether puff duration changed according to  
7 time intervals or cigarette lengths? What were  
8 you trying to find out?

9 A. You asked me before a question about the  
10 why people smoke, and I tried to answer you at  
11 that point by saying that was a question we  
12 found difficult to handle, but how people smoked  
13 and what they were doing as they smoked, those  
14 were things which we should be able to find  
15 something about, which would be repeatable in  
16 other laboratories if that were desired, and  
17 that was the reason for all of this research  
18 into the hows of smoking behavior. Once we knew  
19 all there was about the smoking behavior, in a  
20 sense -- in a sense we would have understood at  
21 least a lot more of why, quote, people smoked.

22 Q. Let's look at Page 6 of the  
23 study.

24 A. This is not a study, incidentally. It is  
25 a --

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1 Q. It's a report on studies?

2 A. It is an annual report.

3 Q. You talk about various studies  
4 that you conducted?

5 A. That is correct.

6 Q. I want to look at the study that  
7 is referenced on Page 6. It's called Effects of  
8 Smoking and Delayed Audio Feedback on Speech  
9 Behavior.

10 A. Yes.

11 Q. Did you design this study?

12 A. Yes.

13 Q. Do you recall what the objectives  
14 were of this study?

15 A. We hadn't found much effect of smoking on  
16 that. Threat of shock study didn't work very  
17 well. Now we had this new gadget that allowed  
18 us to delay audio feedback. Let me explain what  
19 this phenomenon is.

20 Q. Good.

21 A. If you speak into a microphone and the  
22 microphone feeds your speech into a tape unit  
23 and the tape unit feeds back what you have just  
24 said via earphones to your ears, you can hear  
25 yourself talking as other people hear you talk,



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1 but now suppose we change the length of the tape  
2 between the record and the pickup, and instead  
3 of them right next of each other we put a delay  
4 so that you speak into the microphone and hear  
5 what you said with a slight delay, two seconds  
6 later.

7                   What happens to your speech  
8 patterns then? It had been pointed out by some  
9 researchers that the speech patterns go all to  
10 pot when this happens. In a delayed feedback  
11 audio study, quote, when people listen to their  
12 own voices at a delay, their speech patterns are  
13 disrupted. Speech slows. Words are slurred.  
14 They talk loud and they stutter, speak -- Very  
15 distinctively different to the observer, and  
16 they seem more tense, and we wondered if we can  
17 create some of these things, if we could create  
18 a procedure by which we could see the effects,  
19 beneficial effects, of being able to have a  
20 cigarette while this was taking place upon the  
21 annoyance of the delay.

22                   Q.       What was your conclusions?

23                   A.       I don't recall. There was a -- Oh,  
24 yes. Here we are. This is the first time in  
25 which we have found improvement in performance

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1 associated with smoke inhalation, but it wasn't  
2 in the form we predicted.

3 Q. In what form did you find  
4 improvement in performance?

5 A. Under both distracting and nondistracting  
6 conditions reading rate -- reading into the  
7 microphone. -- was improved.

8 Q. Did you ever have occasion, Mr.  
9 Ryan, to discuss any test results that you found  
10 with people in Philip Morris other than through  
11 this vehicle of distributing these reports? In  
12 other words, were you called upon to make  
13 presentations with your colleagues? Were you  
14 orally --

15 A. Which stage of my career?

16 Q. Before you left to go to POL.

17 A. Yes.

18 Q. Was that done on all these  
19 studies?

20 A. No.

21 Q. How would you determine which  
22 studies you made presentations on?

23 A. It was then the custom of a vice  
24 president from New York who was very interested  
25 in research to come to the research center once

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1 a month with one of this colleagues and sit down  
2 in the back room and have various researchers  
3 come through and tell him what they had been  
4 doing. This became known as a Richmond  
5 meeting.

6 Q. Who's the individual from New  
7 York you were referring to?

8 A. It was a V. P. I don't recall what his  
9 name was. I'm sorry, but it was back in the  
10 early seventies this was going on. The program  
11 became so attractive that it ended up, instead  
12 of being conducted in a room a third the size of  
13 this one with him and a couple of researchers  
14 telling him what they were doing, there would be  
15 a formal presentation made by 15 or 20 people  
16 with slides and figures and 70 or so in the  
17 audience. Perhaps I'm a little high on that  
18 70. Anyway, 30. And to be invited to attend  
19 and listen was to be a big thing. Happened once  
20 a month. Perhaps 11 times a year.

21 So depending on what you're  
22 talking about, when it was -- we've got to have  
23 somebody to keep so-and-so happy for an hour  
24 this afternoon, and before we send him home that  
25 early kind of research presentation to the one

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1 man, you ended up with everybody and his brother  
2 wanting to be the ones that made the  
3 presentation and, therefore, told everybody how  
4 good their research was, and all of the New York  
5 big wigs would sit around and listen.

6 Q. Did you make up presentations to  
7 the small-group as well as the large group?

8 A. I made the more presentations perhaps to  
9 the small-group situation than large-group  
10 situation because -- for a variety of reasons.

11 Q. Why is that?

12 A. The small group, because they didn't have  
13 anybody to fill the time they could probably get  
14 me and Tom Schori and somebody else to come and  
15 sit down, and whatever we were going to talk  
16 about meant someone would be not interested, and  
17 he wouldn't have to have a background in physics  
18 or chemistry to understand what was occurring.  
19 Later when it became a question of there being  
20 10 to 20 people here who are getting big  
21 salaries and a lot of the presentations are  
22 being made with products now under development  
23 and the stage in which our testing of these  
24 products has progressed, then it became an  
25 admission by invitation-only kind of a

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1 situation, and I was less likely to be involved  
2 then.

3 Q. How many Richmond meetings would  
4 you say you attended of either size?

5 A. In the 20-odd years? Oh, gee. 12 to  
6 20. Max.

7 Q. When you attended those were you  
8 there just for your presentation or you were  
9 there for the whole meeting?

10 A. Occasionally I was on it to be allowed to  
11 sit in for a couple of presentations before my  
12 own as well as make my own and then get the hell  
13 out. Which sounds nasty, but there were only so  
14 many chairs in there, and you -- When you were  
15 through, you were through.

16 Q. Did you ever attend a Richmond  
17 meeting where Dr. DeNoble made any presentation?

18 A. I don't remember one. May have been  
19 one. I don't recall.

20 Q. In the meetings you attended did  
21 the -- Richmond meetings, did the issue of the  
22 health effects of smoking ever come up?

23 A. No.

24 Q. In any meeting you attended at  
25 Richmond did the issue of the health effects of

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1 smoking ever come up?

2 A. It might have sometime, but to answer yes  
3 to the question would be to give you an entirely  
4 wrong impression. No is the best way to say  
5 it. We didn't --

6 Q. In other words, to give the  
7 answer yes would leave me with the impression  
8 that Philip Morris talked about smoking and  
9 health at meetings, but the answer to the  
10 question is it really wasn't talked about as far  
11 as you were concerned?

12 A. They didn't talk about it to me. It  
13 doesn't mean it didn't get talked about. It's  
14 like a couple things you handed me to look at,  
15 Ryan 1 and Ryan 2. My boss analysis of the vice  
16 president's probable presentation to somebody.  
17 I didn't get involved in that sort of thing very  
18 often. There were dozens of those things made  
19 and it was rare for me to get called into it,  
20 and now when you're talking about smoking and  
21 health, all I can say is the places I went, the  
22 people I talked to, we didn't get involved in  
23 the question of smoking and health.

24 Q. The places you went, the people  
25 you were involved with were research and

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1 development people?

2 A. Exactly.

3 Q. The research and development  
4 people didn't talk about smoking and health?

5 A. No, they didn't.

6 MR. HURWITZ: Objection.

7 MR. HURWITZ: Can we take a  
8 break? It's been an hour and 15 minutes.

9 MR. SHUB: Yes.

10 THE VIDEOGRAPHER: Going off the  
11 record, 3:01:49.

12 (Recess.)

13 THE VIDEOGRAPHER: The time on  
14 the screen is 3:11:31. We are back on the  
15 record.

16 Q. Mr. Ryan, let's look at Page 8 of  
17 Ryan Exhibit 5 and there's a Puff Six. Who  
18 named these studies, by the way?

19 A. The actual research assistant, who's  
20 Barbara Hancock, as I recall.

21 Q. She may have been. Okay. Did  
22 she name them?

23 A. No. No. It could have been Rebecca  
24 Lieser. She was Barbara Hancock's replacement.  
25 I think Rebecca Lieser.

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1 Q. Let's look at Page 8, the studies  
2 about puffing behavior following long and short  
3 cigarette intervals. Puff Six studies. Do you  
4 see that?

5 A. I do.

6 Q. And your objective there was to  
7 studies whether puffing behavior is affected by  
8 the time between cigarettes?

9 A. Yes.

10 Q. And what was the reason you  
11 wanted to studies that?

12 A. We were busy manipulating the variables  
13 that we could manipulate, and time between was  
14 an obvious one.

15 Q. What did you find?

16 A. Data analysis was incomplete as of the  
17 time this report was written. Examination of  
18 the puff count scores suggest that, compared to  
19 their early cigarettes, smokers took fewer puffs  
20 after only a brief elapsed interval and more  
21 puffs after an hour's interval.

22 Q. Let's look at Page 9, Projects in  
23 the Concept Phase. You see the first one called  
24 smoking personality?

25 A. I do.



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1 Q. Whose idea was it to -- Whose  
2 concept was the first studies when you were  
3 looking at considering a prospectus studies  
4 identifying a group of children who you thought  
5 were apt to become smokers?

6 A. Mine.

7 Q. What was the objective of that  
8 studies?

9 A. We wanted to have a long-term prospective  
10 studies in which we identified a group of  
11 children who are considered hyperkinetic --

12 Q. Overactive as the layman --

13 A. Yes. Overactive. This was a phrase just  
14 becoming --

15 Q. Vogue.

16 A. -- well-known in vogue, if you will.

17 Q. Hyperactive is the word I was --

18 A. Hyperactive. Didn't I -- At any rate,  
19 those who -- And it seemed that one of the  
20 medical treatments of hyperactive children  
21 involved giving them doses of a drug which would  
22 normally be considered a stimulant, and, yet, in  
23 the presence -- Yet, for them, this drug had an  
24 anomalous effect. The stimulus which should be  
25 a stimulant was calming them down.

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1 Q. On Page 10 in the middle  
2 paragraph you say, We don't propose giving  
3 cigarettes to first graders of course, but we  
4 think that it is quite possible as such children  
5 reach adolescence at least some of them will  
6 find their smoking produces the advantage of  
7 improving their ability to concentrate.

8 Did you discuss that idea that  
9 Philip Morris may want to sell cigarettes to  
10 adolescents to improve their ability to  
11 concentrate with management?

12 MR. HURWITZ: Objection.  
13 Mischaracterizes the document.

14 A. Don't tell me I can't say no to that  
15 because, no, it never even occurred to me.

16 Q. Well, what did you mean when you  
17 said, It's quite possible that as such children  
18 reach adolescence at least some of them will  
19 find that smoking produces the advantage of  
20 improving their ability to concentrate? What  
21 did you mean by that?

22 A. You will recall that earlier in the same  
23 paper I made a comment about something that  
24 showed an advantage of smoking in the case of  
25 the stuttering people, and now, here again, I

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1 have some possible explanation for why people  
2 might smoke; i.e., smoking calms them down,  
3 quiets them, and, therefore, that's an advantage  
4 to them, and they learn that while they were in  
5 high school when they're first making, their  
6 first trys at smoking, and they say, Oh, I do  
7 better on the days when I have a cigarette than  
8 I do on the days when I don't. Teachers don't  
9 yell at me as much and I seem to get more out of  
10 the class. Therefore, I would expect that when  
11 they're mature I would have some of those people  
12 who were improved by this experience of smoking  
13 in the large group of smokers, just as in the  
14 large group of nonsmokers I would have people  
15 who never had a single puff on a single  
16 cigarette all their life.

17 Q. Let's look at the next page.

18 MR. SHUB: Strike that.

19 Q. How did you go about trying to  
20 conduct this studies?

21 A. I went looking for a measure of  
22 hyperkinesis, as it's called, found somebody who  
23 had a scale by which you could describe a child  
24 as being hyperkinetic, gave a large number of  
25 these scales to a large number of teachers and

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1 had them scale all the children in their  
2 classrooms on this topic. The information was  
3 fed back into the education research group  
4 within the county school system and the papers  
5 eventually were forwarded to me. So that I  
6 ended up with a desk drawer with the names and  
7 hyperkinetic ratings of the -- by their  
8 materials of every child in the fourth grade in  
9 Chesterfield County, Virginia.

10 Q. Obviously the teachers knew  
11 Philip Morris was interested in studying their  
12 young children --

13 MR. HURWITZ: Objection.  
14 Mischaracterizes the testimony.

15 Q. You were studying these  
16 children. Right? What's mischaracterizing  
17 about that?

18 A. What was the verb you used?

19 Q. Did the teachers understand that  
20 Philip Morris was interested in studying the  
21 hyperkinetic activity of these children?

22 MR. DOLUISIO: Objection.

23 A. I really don't have any idea. It was  
24 research psychologists school division with whom  
25 I had contact.

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1 Q. And you told them what? What did  
2 you tell the school?

3 A. I explained what I was interested in, as  
4 you see here, and told them that in the practice  
5 you would be able to identify all of the fourth  
6 grade hyperkinetic kids in Chesterfield County.  
7 They thought that would be a good idea. So they  
8 went out and had the teachers find all fourth-  
9 grade hyperkinetic kids in Chesterfield County,

10 **REDACTED**

11 Q. Wasn't Philip Morris actually  
12 interested in identifying what personalities  
13 might become future smokers?

14 A. Yeah. At least I was. I shouldn't say  
15 the corporation.

16 Q. No one told you not to do the  
17 studies. Right?

18 A. No.

19 Q. Did you pay the school to  
20 administer the test?

21 A. I don't remember whether we did or not.  
22 They were, like most school psychologists,  
23 interested in having something to do, and here I  
24 was busy providing them with hundreds of  
25 Myklebust of pupil rating scale questionnaires.

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1 MR. HURWITZ: I'm going to  
2 interrupt for a minute. I want to object to the  
3 question because it's assuming that tests are  
4 administered to children. That's not the  
5 testimony in this case.

6 MR. SHUB: Mr. Hurwitz, the  
7 record is what the record is, and you don't need  
8 to editorialize it.

9 MR. HURWITZ: I object to the the  
10 question.

11 MR. SHUB: Whatever the record  
12 reveals is what the record reveals.

13 MR. HURWITZ: Fine.

14 MR. SHUB: Your attempt to  
15 bolster it isn't going to help the record.

16 A. What is your point here?

17 Q. I have a next question, and that  
18 is, this was intended to be a long-term  
19 studies. Correct?

20 A. Yes, it was.

21 Q. You were going to track these  
22 students from the fourth grade up until they  
23 were 17 or 18. Correct?

24 A. Oh, no. I was going to have their names,  
25 and by the time they were 17 or 18 or 19 and

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1 graduated from school the chances were that we  
2 would be able to -- We would know who they were  
3 and be able to track them thereafter by means of  
4 alumni records and so on.

5 Q. And see if they were smoking?

6 A. And see the extent that those who --  
7 that there were smokers among the students with  
8 the high Myklebust ratings. At that point there  
9 would have to be some contact made with  
10 somebody, but --

11 Q. You were trying to track to see  
12 whether these fourth-grade students that were  
13 identified as hyperkinetic would later become  
14 smokers?

15 A. Yeah. Because it would calm them down  
16 and they would do better, and that would  
17 demonstrate an advantage of cigarette smoking  
18 for these hyperactive children instead of taking  
19 drugs such as Ritalin and others. Adventitious  
20 discoveries on their part.

21 Q. What was the point for Philip  
22 Morris to know whether it was more advantageous  
23 to smoke cigarettes instead of taking Ritalin?

24 MR. HURWITZ: Objection.

25 Q. What was the point of finding

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1 that out? What did you intend you were going to  
2 do with that information should you have  
3 discovered that smoking actually improved their  
4 concentration levels?

5 A. Wouldn't that have been nice to be able  
6 to bring out that smoking did do this?

7 Q. And then so it was your intent if  
8 you were to discover that, that you would have  
9 desired to have Philip Morris make that kind of  
10 information publicly available so people would  
11 know that.

12 MR. HURWITZ: Objection.

13 Q. You were going to tout that as a  
14 good thing about smoking?

15 A. I didn't care about, quote, people. I  
16 cared about me. Trying to figure out why it was  
17 that people smoked, and here I was trying to  
18 find some positive good thing that cigarette  
19 smoking might conceivably do for some people,  
20 and I had this one batch of people who were  
21 overactive.

22 Q. That's my point. Why were you  
23 trying to find --

24 A. Because I was a scientist.

25 Q. Why were you trying to find out

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1 what conceivably the advantage of cigarette  
2 smoking could be?

3 A. Why did I want to find positive  
4 advantages?

5 Q. Yes.

6 A. Because all I ever heard were people  
7 talking about the negative characteristics of  
8 cigarettes, et cetera, et cetera, et cetera.

9 Q. And the research that you would  
10 uncover about the positive attributes of smoking  
11 would be useless if only Frank Ryan knew about  
12 it. Right?

13 A. Well, we all of us have our little  
14 daydreams about our hour of glory in which we do  
15 this or that to demonstrate that while you guys  
16 are being fools, I know what's right, and this  
17 is right. Hey, look. I found a positive  
18 variable here. We have a little bit of that  
19 going here for me just as we may have the  
20 opposite for some other person.

21 Q. Certainly Dr. Dunn knew you were  
22 doing this studies. Right?

23 A. Oh, yes.

24 Q. And he didn't tell you not to?

25 A. No.

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1 Q. He knew you were trying to find  
2 some positive attributes about smoking. Right?

3 A. Yes.

4 Q. And management knew that you were  
5 trying to do the studies as well. Correct?

6 A. Yes.

7 Q. And they thought that you were  
8 trying to find some positive attributes about  
9 smoking.

10 A. Yes. They read what I wrote.

11 Q. And they didn't think there was  
12 anything wrong with tracking four-year olds --  
13 I'm sorry -- tracking fourth graders up until  
14 they were 18 to see if they became smokers.  
15 Right?

16 MR. DOLUISIO: Objection.

17 Q. Nobody objected to anything about  
18 that studies.

19 A. No. Period. Nobody objected.

20 Q. What kind of -- You mentioned  
21 some negative or drumbeat of bad things about  
22 smoking you were hearing. What were you hearing  
23 about smoking at that point?

24 A. It was the early Summer of 1974.

25 Q. So already you heard it caused

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1 cancer. Right?

2 A.

REDACTED

3  
4 Q

5  
6 A.

7 Q.

8  
9  
10 A.

REDACTED

11  
12  
13  
14  
15 Q.

16  
17  
18 A.

19 Q.

20 A.

REDACTED

21  
22  
23  
24  
25 Q.

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REDACTED

A.

REDACTED

Q.

A.

A.

REDACTED

Q. So can we summarize the studies of hyperkinetic children is -- the objective is to try to dispel or try to -- Let's rephrase it. Try to present something positive about

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1 cigarettes in the light of all the negative drum  
2 beat of stories that were coming out about how  
3 bad they were for you?

4 MR. DOLUISIO: Objection. Whose  
5 objective?

6 A. Remember, throughout the things that we  
7 have been saying here that we've been looking  
8 at, why people smoke and how people smoke, and  
9 we've been digging into strange places like  
10 people stuttering when they're getting their  
11 audio played back to them, et cetera, and if I  
12 came up with very many conclusions based upon  
13 that, who would really think it was that  
14 important, but if I can demonstrate somehow or  
15 other that at least in this one case for at  
16 least this one group of people cigarette smoking  
17 helps them cope with life, then I will have shed  
18 more light on why the cigarette is smoked, and  
19 it is not because of any addiction.

20 Q. So you were trying to dispel the  
21 addiction.

22 A. No. Never thought of that. I just  
23 thought of that now. We did it for the  
24 straightforward reasons laid out in this paper.

25 Q. Sitting here today, you're aware,

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1 I assume, Dr. Ryan, Mr. Ryan, as a psychologist  
2 or retired one, that at the overwhelming medical  
3 and scientific opinion is that nicotine is an  
4 addictive drug.

5 MR. HURWITZ: Asked and  
6 answered.

7 Q. You're aware of that. Right?

8 A. I am aware of that.

9 Q. You just happen to be in the  
10 very, very small minority that doesn't believe  
11 that?

12 MR. HURWITZ: Objection.

13 MR. DOLUISIO: Objection.

14 MR. SHUB: That's not at all an  
15 objectionable question.

16 MR. DOLUISIO: It's not a factual  
17 question.

18 MR. SHUB: Does he believe it?

19 MR. DOLUISIO: Ask him that.

20 MR. SHUB: I will ask him.

21 Q. Am I right? You're in the  
22 overwhelmingly small minority that doesn't  
23 believe nicotine is addictive?

24 MR. HURWITZ: It hasn't been  
25 established there is an overwhelming small

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1 minority.

2 MR. SHUB: We'll establish that  
3 at trial. Let's just -- We'll make that --

4 MR. HURWITZ: Ask a proper  
5 question and we won't object.

6 THE WITNESS: Do you want me not  
7 to answer that question until he's rephrased  
8 it?

9 MR. HURWITZ: If you can answer  
10 it, go ahead.

11 A. Do I think now today nicotine is  
12 addictive for everybody.

13 Q. Not for everybody.

14 A. Oh.

15 Q. For -- Let's use the number 80  
16 percent. For 80 percent of people who smoke  
17 cigarettes is it your opinion nicotine is an  
18 addictive drug?

19 A. I have no idea.

20 Q. You don't have an opinion on it?

21 A. I have no idea whether 80 percent of the  
22 people would find nicotine addictive.

23 Q. Do you believe that there's one  
24 percent of smokers who find nicotine to be  
25 addictive?

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1 A. Again, I have no idea. I know of no  
2 research into that question, and you're asking  
3 me as a research scientist a question for which  
4 I must give you a research answer. Do I know  
5 that 50 million people or more have quit?  
6 Yeah. Does that sound addictive to me? No.

7 Q. Mr. Ryan, I place before you what  
8 has been marked as -- the court reporter will  
9 mark as Ryan Exhibit 6.

10 (Exhibit Ryan-6, marked for  
11 identification.)

12 Q. I would like you to focus your  
13 attention on Pages 5 and 6.

14 Mr. Ryan, the court reporter has  
15 placed before you what has been marked Ryan  
16 Exhibit 6 bearing Bates Stamp 1000085385 through  
17 392, and it's a memo, is it not, from Dr. Dunn  
18 to Dr. Osdene dated November 26, 1980?

19 A. Yes.

20 Q. And the fifth page has  
21 Experimental Psychologist Program and your name  
22 next to it.

23 A. Yes.

24 Q. Did you write this part of the  
25 memo?

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1 A. I don't recall.

2 Q. Did you see this memo before  
3 Dr. Osdene received it, do you know?

4 A. My name isn't on any distribution list  
5 here.

6 Q. Well, let's look at the first  
7 planned studies. It says salivary nicotine?

8 A. Yes.

9 Q. Do you recall that studies?

10 A. Yes.

11 Q. Actually, that was a studies you  
12 were working on when the lab was closed, wasn't  
13 it?

14 A. Yes. We were still working on that. It  
15 starts out by saying that, Speculation suggest  
16 that smokers modify their behavior to maintain  
17 certain levels of nicotine in the blood.

18 Q. At that point in 1980 is it fair  
19 to say you agreed with that speculation?

20 A. I recognized that there was that  
21 speculation. Yes.

22 Q. I'm asking whether you would  
23 agree with that speculation at that point in  
24 time.

25 A. I didn't know yet. That's what we were

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1 doing the testing for.

2 Q. At that point no, one --

3 MR. SHUB: Strike that.

4 Q. At that point at Philip Morris in  
5 1980 no one had done any tests to determine  
6 whether smokers modified their behavior to  
7 maintain certain levels of nicotine in the  
8 blood?

9 A. No. We didn't make blood measurements.  
10 Somewhere in here in -- I must have said, or we  
11 must have said, that we aren't going to measure  
12 blood because we need to have a physician and so  
13 on and so forth, and I'm not going to ask a  
14 bunch of people to come in and shed blood for  
15 me. Here it is. In C. A correlational  
16 studies of nicotine with blood nicotine is  
17 awkward research to perform because the taking  
18 of samples is so intrusive and objectionable to  
19 participants, because it requires medical  
20 supervision. Therefore, we'll postpone this  
21 segment of research until it's evident there's  
22 some reason to do that sort of thing, which if  
23 you understand how to read between the lines,  
24 says we probably are never going to do such a  
25 thing in-house.

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1 Q. What was the progress of your  
2 nicotine-salivary nicotine studies at the time  
3 that they were terminated when the research lab  
4 was abruptly closed?

5 MR. HURWITZ: Objection.

6 A. We hadn't produced any data worth  
7 discussing. With our management or anybody  
8 else.

9 Q. Were you able to come to a  
10 conclusion as to whether smokers modify their  
11 smoking behavior to maintain certain levels of  
12 nicotine in the blood?

13 A. No. We didn't try it. Didn't look.  
14 Didn't test the blood.

15 Q. That's because your efforts were  
16 cut off. Right?

17 A. No. We hadn't shown anything at all.

18 Q. And you never did because the  
19 project was terminated.

20 A. We had never shown anything to anybody.

21 Q. The nicotine titration  
22 hypothesis, we discussed that earlier. Correct?

23 A. I didn't discuss that earlier. You  
24 mentioned it once before, and historically it is  
25 this speculation that smokers modify their

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1 behavior to maintain certain levels of nicotine,  
2 which is the nicotine titration hypothesis.  
3 That's the speculation.

4 Q. Did -- Here in the bottom it says  
5 there were plans for a project where nicotine  
6 would be delivered intravenously to subjects.  
7 Did that project ever take place?

8 MR. DOLUISIO: Objection.  
9 Mischaracterization of the document.

10 Q. Did that ever take place? I'm  
11 sorry.

12 A. No.

13 Q. Why not?

14 A. This is present in the, quote,  
15 experimental psychology program according to  
16 Ryan and Dunn, but this was not a program of  
17 Ryan. If somebody is going to do this, it will  
18 have to be contracted out as far as I was  
19 concerned. It says, There are tentative plans.

20 Q. Was it ever contracted out?

21 A. Not to my knowledge.

22 (Exhibit Ryan-7, marked for  
23 identification.)

24 Q. Mr. Ryan, the court reporter has  
25 placed before you what has been marked Ryan

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1 Exhibit 7. Bears Bates Stamp 1003288378 through  
2 8405. Is that your signature at the front of  
3 this document?

4 A. It is.

5 Q. Was this written in the ordinary  
6 course of business at Philip Morris?

7 A. It was.

8 Q. This is a behavioral annual  
9 research report that you wrote along with  
10 several others?

11 A. Correct.

12 Q. Let's look at Page 3. There is a  
13 mention of a delayed audio feedback studies.  
14 Correct?

15 A. Yes.

16 Q. I think we talked about this  
17 studies?

18 A. Yes.

19 Q. On Page 4 you list your  
20 conclusions?

21 A. Increased speech rate, decreased errors.  
22 Magnitude of effects not great. Possibly due to  
23 equipment problems.

24 Q. Did you ever conduct this studies  
25 again?

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1 A. No.

2 Q. The next studies on Page 4,  
3 Smoking Behavior Following Deprivation, what was  
4 your objective in this studies?

5 A. The second paragraph of the section  
6 entitled smoking behavior following deprivation  
7 says that we were indirectly testing the effects  
8 of various laws, ordinances, business  
9 establishment decisions, et cetera, which  
10 forbade smoking in various places, buses,  
11 stores, waiting rooms, et cetera, and we were  
12 wondering what effect such short-term smoke  
13 deprivation would have upon subsequent  
14 consumption or -- and upon subsequent puffing  
15 behavior.

16 Q. What was the -- Why in your mind  
17 were you interested in finding that information?

18 A. You'll recall my saying that such things  
19 as -- that you use, the available equipment,  
20 that one studies leads you to say what would  
21 happen if I did something else, et cetera, and  
22 this is one of those circumstances. We knew  
23 people were being deprived of cigarettes for  
24 short periods. So the question in our mind is,  
25 how does this affect the subsequent smoking

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1 behavior? Bigger puffs? Shorter intervals  
2 between puffs? More cigarettes consumed? More  
3 of the cigarette consumed? What?

4 Q. Was any of this research ever  
5 furnished to individuals that were in the  
6 product development area?

7 A. Distribution is to Wakeham. He was the  
8 president. Resnik.

9 Q. Frank Daylor. Do you know who he  
10 was?

11 A. Yeah. He was in product development.

12 Q. He was, wasn't he?

13 A. Yeah.

14 Q. Cliff Lilly --

15 A. 'Cliff Lilly.

16 Q. He was also in product  
17 development?

18 A. Right. Senior --

19 Q. Leo Meyer. He was also in  
20 product development, wasn't he?

21 A. He was chairman at one time of product  
22 development or -- I don't know whether he would  
23 have been manager or what at this particular  
24 point. In other words, this was, again, as in  
25 the case of the other distribution that we

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1 commented on before, a case of you give the  
2 secretary the data and she sends it to everybody  
3 on the list.

4 Q. Again, I guess I commend your  
5 modesty, Mr. Ryan, but I suspect that these  
6 studies were not being done just to satisfy  
7 Frank Ryan's curiosity. These studies were  
8 being done because Philip Morris was trying to  
9 learn as much as they could about smoker habits  
10 and the way they smoked and why they smoked.  
11 Right?

12 MR. HURWITZ: Objection.

13 Q. In other words, the company  
14 wouldn't allow you to spend valuable  
15 corporate --

16 MR. HURWITZ: He hasn't answered  
17 the question.

18 Q. -- without believing there was a  
19 purpose in it. Correct?

20 MR. DOLUISIO: Objection.

21 MR. HURWITZ: Objection.

22 A. Let's go back to the question you asked  
23 before in which you were asking me whether --  
24 Whether what?

25 Q. Whether that -- Whether these

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1 studies were initiated by you just -- and were  
2 used solely to settle your curiosity about a  
3 couple questions?

4 A. An awful lot of it was that.

5 Q. Was this particular studies an  
6 example of --

7 A. Yes.

8 Q. -- settling your curiosity?

9 A. Yes. Of course, we make these decisions  
10 in hopes that somehow or other our curiosity  
11 will interact with the curiosity of others and  
12 that will make people think about the wonderful  
13 research they're doing down in the third floor.

14 Q. You did a studies called mixed  
15 pack studies. Is that correct?

16 A. Yes.

17 Q. What was the purpose of that  
18 studies?

19 A. Have you got that studies there? Is  
20 there a reference to it here?

21 Q. It's on Page 17.

22 A. 17. Within psychology there is a  
23 long-term area of research devoted to the  
24 frequency, percentage of times, variability of  
25 reinforcement. If you run a rat through a maze

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1 and at the end of the maze he gets a reward, he  
2 learns fairly quickly how to get through the  
3 maze. If you then stop giving him the reward at  
4 the end of the maze he continues running through  
5 it, but after a while he stops.

6 If instead of rewarding the rat  
7 every time as he runs through the maze you only  
8 reward him part of the time for making the  
9 correct response, so he might go through three  
10 trips before he gets a pellet of food, then he  
11 acquires the response of maze-running under  
12 conditions of, quote, intermittent  
13 reinforcement, meaning irregular rewards to you  
14 and me.

15 If you now take the food out of  
16 the maze, those animals which acquired the habit  
17 under intermittent reinforcement keep running  
18 and running and running long after the ones that  
19 always found the food there have quit.

20 There's an analogy to that in the  
21 variability of the delivery of certain  
22 cigarettes. That is a given product such as  
23 Marlboro may deliver, I'll say, 15 milligrams of  
24 tar, but if you think every cigarette in this  
25 pack is going to deliver 15 milligrams of tar

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1 when smoked the way you smoke it you have a very  
2 simplistic faith, indeed. And the chances are  
3 better that you will find some cigarettes  
4 delivering 13 or 14 and some 15 or 16, et  
5 cetera.

6 So that there is some inconstancy  
7 in the level of smoke that any cigarette brand  
8 delivers to the consumer, and supposed we build  
9 into the situation a large amount of  
10 inconsistency. We could take ten cigarettes  
11 that delivered ten milligrams of tar and ten  
12 cigarettes that deliver 20 milligrams of tar and  
13 smoke them in a smoking machine, and the average  
14 would be 15, but some of them are 10 and some of  
15 them are 20. Some of them would be too strong  
16 and some are going to be too weak. What  
17 happens? I don't know what happens. Let's make  
18 up some mixed pack of cigarettes with different  
19 proportions in here so they'll have different,  
20 and see if this affects the ratings they give  
21 the cigarette, because we know that the  
22 variability is going to go up and down all the  
23 time. What happens when that occurs? That's  
24 the question that we're getting at in the mixed  
25 pack studies.

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1 MR. SHUB: We have to get off the  
2 record to change the tape.

3 THE VIDEOGRAPHER: We're going  
4 off the record at 3:58:24.

5 (Recess.)

6 THE VIDEOGRAPHER: The time is  
7 4:06:07. We're back on the record.

8 A. Did you want me to finish my answer?

9 Q. Yes, I do. I thought you were  
10 finished.

11 A. So you have, therefore, a contrast in the  
12 reinforcement effects of these different  
13 cigarettes or the reward or nonreward at the end  
14 of the runway, and here we have an opportunity  
15 to look at this by having people smoke a mixed  
16 pack of cigarettes that have some high. And  
17 some low-delivery cigarettes in here, others who  
18 have all the cigarettes like the ones in the  
19 center, and when average of the two deliveries,  
20 and we have an opportunity to ask people  
21 questions about why they didn't like this pack  
22 or why they didn't like that pack or what, and  
23 get verbalized responses from human beings about  
24 a product that seems fairly important to them;  
25 namely, the cigarette, and in the practice of

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1 gathering this information we learn something  
2 more about this, quote, intermittent  
3 reinforcement effect that we have already seen  
4 take place in rats who run down runways faster  
5 and longer if there are intermittent rewards  
6 down there than continuous rewards down there.  
7 Okay?

8  
9  
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21  
22  
23  
24  
25  
**REDACTED**

Q.

A.

Q. . No. Strike that.

A. You want to go back to the topic.

Q. Right.

A. I thought we were on the topic.

Q. Let's look at -- Before we go  
let's talk about the mixed pack studies. What  
were the results of your mixed pack studies?

A. Differences were not statistically  
significant.

Q. Which you interpret to mean what?

A. Smokers gave the same ratings for  
acceptability, et cetera, than the maybe

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1 switched product they received. Either they  
2 thought one cigarette -- some of the cigarettes  
3 in the package were too weak or they thought  
4 some of the cigarettes in the package were too  
5 strong. The smokers of high fidelity --

6 MR. SHUB: Off the record. I'm  
7 sorry.

8 THE VIDEOGRAPHER: We're going  
9 off the record at 4:39:08.

10 (Recess.)

11 THE VIDEOGRAPHER: The time on  
12 the screen is 4:10:12. We're back on the  
13 record.

14 A. To finish my statement, none of the  
15 panelists gave us any information that was  
16 terribly useful. You'll find it described on  
17 Page 15. 16. 18.

18 Q. Let's look at Page 20. You'll  
19 see personality smoking and stimulus deprivation  
20 under Roman Numeral One. Do you see that?

21 A. Yes. I see it.

22 Q. Did you write that section of  
23 this annual report?

24 A. No.

25 Q. Who did?

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1 A. Probably Dr. Dunn, but that's just a  
2 guess.

3 Q. Why do you guess it would be him?

4 A. Because he is quoting the personality  
5 researcher, Hans Eising (phon), the British  
6 psychologist, and Dr. Dunn was very impressed by  
7 Hans Eising who had hypothesized a variety of  
8 things about extraversion and intraversion that  
9 sounds as if something that was going to be --  
10 he was going to have Rebecca Lieser carry out.

11 Q. And not you? Why do you believe  
12 that he was going to have Rebecca Lieser carry  
13 it out and not you? What was he going to  
14 have --

15 MR. SHUB: Let me strike that and  
16 ask the first question.

17 Q. What do you mean that Dr. Dunn  
18 was going to have Rebecca Lieser carry something  
19 out? What was he going to have her do?

20 A. Do the research that he describes.

21 Q. Were you going to be involved in  
22 that research?

23 A. In practice, no. Becky reported to me.  
24 I reported to Dunn, and she's now here doing  
25 something for him instead of something for me.

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1 Q. On Page 21 at the top the  
2 document is making reference to increasing  
3 central nervous system activity, and the carry-  
4 over paragraph from 20 to 21. I'm talking about  
5 the top of 21 now. It says, Another way to  
6 increase C. N. S. activity would be to consume  
7 socially-acceptable chemicals which have a  
8 similar effect on the body such as the stimulant  
9 drugs caffeine and nicotine.

10 Do you see that?

11 A. I do.

12 Q. Did you accept during this  
13 period, Doctor -- Mr. Ryan, in around 1975 that  
14 nicotine was known as a stimulant drug?

15 A. I would have accepted that. Yes.

16 Q. Do you think it's fair, Mr. Ryan,  
17 to call a cigarette a nicotine-delivery device?  
18 Is that a fair --

19 A. I have heard Dr. Dunn say so.

20 Q. Have you ever heard Dr. Dunn  
21 refer to a cigarette as a drug-delivery device  
22 since nicotine is a drug?

23 A. I don't think so. I would have probably  
24 remembered it if I had heard him call it a  
25 drug-delivery device because I never considered

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1 that we were working with drugs when we were  
2 having people smoke cigarettes.

3 Q. Did you recognize that nicotine  
4 was a drug at that point in time, back in 1975?

5 A. No. That's what I'm saying. I didn't  
6 consider that we were working with drugs, and if  
7 you had told me a cigarette was a drug-delivery  
8 device I would have said, Oh, well, sure. It's  
9 your baby. You call it whatever you want, but I  
10 don't think of it that way, and I don't know  
11 that Dr. Dunn did either. That would be just a  
12 wild guess on my part one way or another.

13 That paragraph that you referred  
14 to is a -- incidentally paraphrasing Eising, not  
15 Dunn, which we're talking about the socially-  
16 approved chemicals such as stimulant drugs;  
17 caffeine, nicotine.

18 Q. Let's look at Page 22. The  
19 hyperkinetic child as a prospect prospective  
20 smoker. That's the studies that we referred to  
21 earlier. Correct? It's just you're continuing  
22 the development of the studies?

23 A. Correct. We had one drawerful of data  
24 and now we were discussing whether we could get  
25 a couple more drawerfuls.

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1 Q. Let's look at Page 25. There's a  
2 studies called, Is learning affected by  
3 nicotine. Do you recall that studies?

4 A. Yes, but I don't recall what happened.

5 Q. Whose idea was it to engage in  
6 this studies?

7 A. The paragraph titled Is Learning Affected  
8 By Nicotine suggests that this is is a Ryan and  
9 Lieser effort and says that there had been  
10 recent studies by Anderson and Post which  
11 reported nicotine interferes with human learning  
12 in at least one task situation. The learning of  
13 a long list of nonsense syllables. We looked at  
14 that studies and were unhappy about its data and  
15 found it and its findings and are planning to  
16 repeat it. We felt the responsibility to see  
17 that the published report was corrected if it  
18 was, in fact, wrong. The smoking studies in  
19 psychology journals contain too much  
20 unchallenged and unreplicated junk which has  
21 passed editorial review because the findings  
22 conform to editorial biases against tobacco.  
23 Sooner or later we felt the accumulation of this  
24 unchallenged sloppy work will be used against  
25 us, and we weren't interested in picking a

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1 fight, but still --

2 Q. You were reading from the  
3 document just now?

4 A. Yes.

5 Q. You said the work -- sooner or  
6 later the work would be used against us. Did  
7 you mean in litigation against tobacco  
8 companies?

9 A. I didn't think of it in terms of  
10 litigation.

11 Q. What did you --

12 A. Actions in the scientific community where  
13 scientific reports would be made which condemned  
14 tobacco which were based on very poorly-edited,  
15 poorly-conducted research, and there was a lot  
16 of that.

17 Q. Doctor -- Mr. Ryan, was there a  
18 studies at any time that you were aware of at  
19 Philip Morris that concluded that nicotine  
20 facilitated any aspect of the learning process?

21 A. I don't recall the extent to which we  
22 were ever able to show that. No.

23 Q. Was there a studies at Philip  
24 Morris that in your mind ever proved to your  
25 satisfaction that cigarettes were in some way

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1 beneficial, the smoking of cigarettes was in  
2 some way beneficial to humans?

3 A. We mentioned earlier in which case we had  
4 the advantage of those people who were listening  
5 to their own delayed voice, and we looked at  
6 some other aspects as well at one time or  
7 another, but I remember very few that showed  
8 anything positive. We had a basic problem, of  
9 course.

10 Q. Which was?

11 A. If we found something positive and  
12 published it under our names from Philip Morris,  
13 who would believe us?

14 Q. So how did that problem present  
15 an obstacle to your finding internally that  
16 cigarettes -- Let me finish. -- that cigarettes  
17 were beneficial? It didn't. Right?

18 A. It doesn't as far as Frank Ryan is  
19 concerned. His curiosity will be satiated if we  
20 can find these things, preferably 40 or 50 of  
21 them.

22 Q. And it's safe to say Frank Ryan  
23 spent a good bit of time trying to find  
24 beneficial aspects of cigarettes. Right?

25 A. "A good bit of time" is an exaggeration.

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1 Q. Some time?

2 A. Some time.

3 Q. Let's look at Page 27.

4 The title of this project is  
5 called Annual Cigarette Monitoring. Do you  
6 recall participating in that project?

7 A. Yes.

8 Q. Was this as far as you recall,  
9 Mr. Ryan, the first year of this project?  
10 Because I notice this project recurs in  
11 documents in other years, and I was wondering  
12 whether this was the first year as far as you  
13 remember.

14 A. We are in a section here which I believe  
15 deals with planned studies. Yes. It's planned  
16 studies. So this would have been something  
17 which was conducted after July of 1975. The  
18 document was written and saying that this is a  
19 planned studies as of July of '75. So that  
20 tells us that we did this in '75, '76. I  
21 remember --

22 Q. Whose idea was it to engage in  
23 this annual cigarette monitoring?

24 A. Mine.

25 Q. Why did you think this was a good

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1 idea?

2 A. If we turn to Page 27, we see a  
3 description of what was going to happen, and we  
4 point out the fact that we lacked data on the  
5 relative acceptability of different delivery  
6 cigarettes evaluated by the same smokers. In a  
7 way, it was one of the nicest studies I ever  
8 ran.

9 Q. Why is that?

10 A. We had a group of cigarettes made up by  
11 our researchers which delivered a span of  
12 nicotine and tar. One product delivered 21  
13 milligrams of tar or thereabouts. Another one  
14 had about 17. Another, less, and less finally  
15 had one delivered about eight.

16 Then we sent samples of each of  
17 these cigarettes to a wide number of smokers  
18 chosen from one of our national rosters of  
19 smokers, and we had them rate the acceptability  
20 of each one of these delivery levels and the  
21 strength of each one of these delivery levels  
22 based upon the cigarette that was in Pack J 6 or  
23 the cigarette that was in Pack L 2 or something  
24 like that, and they sent us back data, and we  
25 knew what cigarette they normally smoked. So we

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1 classified their responses according to their  
2 normal product, and what we found was that  
3 people thought the most acceptable of these  
4 experimental cigarettes was the one whose tar  
5 delivery was closest to their own. They were,  
6 in fact, blind about what the tar deliveries  
7 were. The cigarettes were unmarked, et cetera.  
8 They had to smoke it to get the feeling of the  
9 smoke and then make the evaluation, and when we  
10 asked them to evaluate the cigarettes for  
11 strength, then the low-delivery smokers tended  
12 to tell us they were all a little too strong,  
13 and the high-delivery smokers told us they were  
14 all a little too weak, and the people who told  
15 us in the middle -- who only smoked cigarettes  
16 in the middle gave us results in the middle.  
17 Everything worked out very nicely.

18                   There was not, it seemed to us  
19 after we looked at the data, a vast longing  
20 within the subject population for the cigarettes  
21 they used to smoke 10 years ago, all of which  
22 were stronger than the ones they were smoking  
23 today.

24                   Q.           What in your mind based on  
25 experience at Philip Morris factors impacted

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1 upon cigarette acceptability?

2 A. What factors impacted on cigarette  
3 acceptability?

4 Q. Yes.

5 A. I just answered one major factor; namely,  
6 is this cigarette like the one I have been  
7 smoking? The more different it is from the one  
8 I have been smoking -- Recall my cigarette  
9 acceptability curve that peaks in the center,  
10 stimulus-generalization curve? The more similar  
11 it is to the one I'm familiar with, the better  
12 I'm going to like it. The more different it is,  
13 stronger or weaker, flavor or no flavor, the  
14 less I'm going to like it.

15 Q. Have you heard of the term  
16 "impact" in describing smoking?

17 A. Yes.

18 Q. What did you understand "impact"  
19 to mean?

20 A. Impact is the sensation as used at Philip  
21 Morris R and D created by the smoke hitting the  
22 back of your throat, and it has a certain whack,  
23 as they would have said, as high impact. If it  
24 doesn't have any, low impact.

25 Q. What did -- What role do you

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1 believe nicotine has in impact?

2 A. I wouldn't be surprised if you were to  
3 demonstrate to me that it was nicotine that was  
4 responsible for this, but I never made any  
5 measures of impact, and I don't even remember,  
6 although I possibly could have, using the term  
7 in any of the research I ever conducted either  
8 at the product opinion laboratory or back to the  
9 behavioral research lab.

10 MR. SHUB: Let's have the court  
11 reporter mark the next exhibit which would be  
12 Exhibit 8. Is that correct?

13 (Exhibit Ryan-8, marked for  
14 identification.)

15 Q. Mr. Ryan, the court reporter has  
16 placed before you what has been marked as Ryan  
17 Exhibit 8. It's been Bates-stamped 1000348673  
18 through 720. I ask you if you recall this  
19 document.

20 A. I do.

21 Q. Is this your signature on the  
22 front page?

23 A. It is.

24 Q. And did you write this document,  
25 this report?

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1 A. I did.

2 Q. Did you conduct a studies that's  
3 referenced in this report?

4 A. I didn't originate the idea, but I did  
5 write the report.

6 Q. Did you go to Greenfield, Iowa?

7 A. I did.

8 Q. Were you aware that this studies  
9 was the subject of a Dateline, N. B. C. story  
10 about three weeks ago?

11 A. No.

12 Q. Were you contacted by N. B. C.?

13 A. No.

14 Q. Whose idea was it to conduct this  
15 studies?

16 A. I believe it was either Ray Fagan or Bill  
17 Dunn's. You'll find Fagan's name at the bottom  
18 of the distribution list, I think.

19 Q. What was the objective in this  
20 studies?

21 A. The purpose of the studies is described  
22 on Page 4. We visited and interviewed the  
23 townspeople of Greenfield, Iowa, during March of  
24 1970, six months following the end of the  
25 antismoking campaign that occurred in

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1 conjunction with the filming of the movie Cold  
2 Turkey to see what effect the campaign had had  
3 on their long-run smoking behavior, whether the  
4 smokers who quit developed any substitutes for  
5 the cigarettes they abandoned and whether the  
6 immediate effects of quitting produced short- or  
7 long-term problems such as aggressiveness, gain  
8 of weight, et cetera, and whether we could  
9 discriminate between nonsmokers, nonquitters,  
10 and quitters on the basis of other variables  
11 related to their smoking history.

12 Q. Why were you interested in those  
13 objectives? What were you trying to learn?

14 A. Remember that the studies was originated  
15 by somebody else than me. Or than I. In the  
16 studies -- The movie, Cold Turkey, had to do  
17 with the whole town in Iowa that quit smoking,  
18 and in conjunction with the filming of the movie  
19 a major quit-smoking campaign was introduced in  
20 Greenfield in 1969 as a publicity stunt, and in  
21 return for the publicity the town got some cash  
22 from the movie producer, and the question was as  
23 far as we were concerned here we had this whole  
24 community where people tried to quit smoking.  
25 What happened? Were they successful? Did they

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1 stay off? Were there any major problems that  
2 they faced, et cetera?

3 Q. At that point in time did Philip  
4 Morris --

5 MR. SHUB: Strike that.

6 Q. Before you came to Greenfield,  
7 Iowa, was it your opinion that the act of  
8 quitting smoking was difficult to achieve?

9 A.

**REDACTED**

10

11 Q. What was your -- Did you  
12 have -- Prior to going to Greenfield had Philip  
13 Morris researched individuals that had quit  
14 smoking to follow them to see how -- what the  
15 reaction was to the termination of smoking?

16 MR. HURWITZ: Objection.

17 You can answer.

18 A. I don't understand your question.

19 Q. In other words, was this the  
20 first time Philip Morris had as far as you know  
21 engaged in any kind of studies of people that  
22 had stopped smoking?

23 A. Yes.

24 Q. Was this the only time that this  
25 Greenfield, Iowa, was the only time that you

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1 know that Philip Morris studied internally  
2 people that had quit smoking?

3 MR. HURWITZ: Objection. Vague.

4 A. Internally.

5 Q. Had you studied this --

6 A. No. Nobody else would have done this,  
7 but me.

8 Q. Has anyone at Philip Morris after  
9 this as far as you know studied people that had  
10 quit smoking and tracked them?

11 MR. HURWITZ: Objection. Vague.

12 You can answer the question.

13 A. I don't know of any research subsequent  
14 to this. Carolyn Levy might have asked that  
15 question and Sandra Dunn might have asked that  
16 question in connection with a whole bunch of  
17 other things they were asking questions about,  
18 and I once looked at people who had already quit  
19 and the brands that they quit from, but as far  
20 as a general test of quitting is concerned, none  
21 of that was done at the research center that I  
22 was familiar with.

23 Q. Let's look at the summary.

24 Do you recall exactly how many  
25 individuals who had actually tried to quit were

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1 successful?

2 A. I'm sure it's tabled within here.

3 MR. HURWITZ: The question was  
4 whether you recall that. Do you recall?

5 THE WITNESS: No. I don't  
6 recall.

7 Q. There's no question right now, is  
8 what your counsel is telling you.

9 It appears that 28 percent of  
10 those who tried to quit remained nonsmokers. Do  
11 you see that on the first page of the summary?

12 A. Yes.

13 Q. Is that what you recollect to be  
14 the situation, that approximately 70 percent who  
15 tried to quit could not?

16 MR. HURWITZ: Objection.  
17 Mischaracterizes the document.

18 Q. Mr. Ryan, are you looking for the  
19 answer to my question?

20 A. I'm not sure what your question was at  
21 this point. About 80 or percent or something.

22 Q. The summary says, Eight months  
23 later 28 percent of those who tried to quit were  
24 still nonsmokers. That would indicate to me  
25 that approximately 72 percent of those who tried

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1 to quit could not. Correct?

2 MR. HURWITZ: Objection.

3 MR. DOLUISIO: Objection.

4 Q. Approximately 72 percent of those  
5 who tried to quit did not. Is that fair to  
6 say?

7 A. The more important to me measure, reading  
8 now something I wrote 27 years ago -- 26 years  
9 ago, was that 10.6 percent of the original  
10 smoking population were now nonsmokers.

11 Q. Why is that more significant to  
12 you?

13 A. Because I'm not sure whether the 28  
14 percent of those who tried to quit means here  
15 are those that didn't try to quit and here are  
16 those who didn't quit and 28 of this batch were  
17 successful and so on. 10 percent succeeded.

18 Q. Is that about what you understood  
19 to be the national average of smokers who tried  
20 to quit?

21 A. I had no idea and still have no idea.

22 Q. The next paragraph, Quitters ate  
23 and nibbled more nuts, gum, candy, et cetera,  
24 than they used to. Was there a scientific  
25 research reason for that in your mind?

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1 MR. HURWITZ: Objection.

2 A. Is there a scientific reason why people  
3 ate more candy bars.

4 Q. Right. Than they did. Those  
5 that quit ate more than they did before they  
6 stopped smoking.

7 MR. HURWITZ: Objection.

8 A. You're asking me something that I really  
9 couldn't answer, but I asked the questions. So  
10 I must have wondered whether they would increase  
11 their consumption of snack foods if they didn't  
12 have their cigarettes available. It's a  
13 displacement activity. You notice they didn't  
14 drink any more beer or drink any more liquor.

15 Q. It says at the bottom, Even after  
16 eight months quitters reported having neurotic  
17 symptoms such as feeling depressed, being  
18 restless, ill-tempered, having a loss of energy,  
19 being apt to doze off, et cetera. They were  
20 further troubled by constipation and weight  
21 gains which averaged about five pounds per  
22 quitter. Did Philip Morris ever attempt to  
23 understand why smokers were reporting these  
24 symptoms?

25 A. I didn't. I accepted the results that I

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1 had here as --

2 Q. Did you interpret as to why that  
3 was the case, why were smokers -- why were  
4 quitters feeling more depressed, why were they  
5 being restless and tense? Did you ever try to  
6 figure that out?

7 A. There isn't any formal discussion section  
8 in here. There might have been in the -- in  
9 some other report.

10 Q. Was the reason why they were  
11 feeling the way they were as reported on this  
12 page, Mr. Ryan, because they were suffering from  
13 a chemical withdrawal?

14 MR. HURWITZ: Objection.

15 A. I don't know that they were subject to  
16 feeling any chemical withdrawal. I don't know  
17 whether a chemical withdrawal would have caused  
18 them to eat more peanuts and chew more match  
19 sticks or whatever they have or feeling  
20 ill-tempered. I do know that if you interfere  
21 with a well-established response that statements  
22 like this are typical of what you see when you  
23 have extinction behavior. Extinction behavior  
24 is when you switch reinforcement to  
25 nonreinforcement.

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1 Q. You wouldn't attribute, would  
2 you, sir, any of these -- you wouldn't  
3 attribute any of these symptoms to a lack of  
4 chemical intake by these quitters. In other  
5 words, they were smoking cigarettes with  
6 nicotine at one point, and they stopped intaking  
7 nicotine, and they suffered these symptoms.  
8 Would you attribute the lack of nicotine to  
9 these symptoms?

10 MR. HURWITZ: I've got to object  
11 to that question.

12 A. I really have a lot of trouble with that  
13 because in your answer -- In your question  
14 you're making an assumption that I had been  
15 telling you for much of the afternoon I didn't  
16 necessarily believe in, namely, that it was the  
17 nicotine that was available. We're talking  
18 about events now that are eight months after the  
19 fact, and --

20 Q. I know, but in your mind were  
21 you -- Were you concluding in your mind at this  
22 time that they were suffering from nicotine  
23 withdrawal?

24 A. No. I didn't think of it in terms of  
25 nicotine withdrawal. It was in terms of having

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1 stopped smoking, the gross behavioral response  
2 had been interfered with.

3 Q. And you concluded, did you not,  
4 sir, that quitting smoking was a difficult  
5 experience?

6 A. The statistics suggested that not  
7 everyone had tried, and that would be quitters  
8 had exhibited some increases in their nervous  
9 mannerisms. We still found there were some  
10 match-chewing, nail-biting, thumb-twiddling.

11 Q. In other words, they were gaining  
12 weight and eating more and they were more  
13 neurotic?

14 MR. HURWITZ: Objection. You're  
15 mischaracterizing his testimony.

16 Q. Is that correct?

17 A. That was occasionally reported by the  
18 consumers.

19 Q. Is that, sir, what caused you to  
20 write the paragraph you wrote on the top of Page  
21 33 where you said, This is not the happy picture  
22 painted by the Cancer Society antismoking  
23 commercial which shows an exuberant couple  
24 leaping in the area and kicking their heels at  
25 joy because they kicked the habit. A more

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1 appropriate commercial would show a restless,  
2 nervous, constipated husband bickering viciously  
3 with his bitchy wife who is nagging him about  
4 his slothful behavior and growing waistline?  
5 You were trying to describe what the realities  
6 of trying to quit smoking were like, weren't  
7 you?

8 MR. HURWITZ: Objection.

9 Q. In a rather colorful manner.  
10 Correct?

11 A. Yes. Emphasize the colorful facet of it.

12 Q. It was colorful, but it was, in  
13 fact, a point you were trying to convey, that it  
14 was a difficult --

15 MR. HURWITZ: Objection.

16 A. My audience is on Page 1 of the  
17 distribution sheet.

18 Q. I understand that, but my point  
19 is that that paragraph, while certainly  
20 colorful, is an attempt to convey to your  
21 audience at Philip Morris the very difficult  
22 time that quitters were having in keeping off  
23 the cigarettes that they were -- keeping off  
24 the cigarettes they originally at one time had  
25 consumed. Correct?

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1 MR. HURWITZ: Objection.

2 Q. There's a question pending.

3 (The last question is read back  
4 by the reporter.)

5 A. I find it difficult to answer. At the  
6 time the antismoking commercials, some of which  
7 were very well done, were very annoying to those  
8 of us who worked within the tobacco industry,  
9 and those that showed the happy couple leaping  
10 in the air like a couple of ads for Japanese  
11 automobiles subsequently have been, really  
12 didn't portray the reality of quitting, of  
13 giving up a response that had for years been  
14 dear to you, a solace in your time of need, et  
15 cetera, and now you're giving all that up and  
16 you've got to find something else and you  
17 haven't found it yet.

18 Q. And you were trying to convey to  
19 your audience the difficulties that one  
20 encounters in giving up cigarettes. Right?

21 A. More or less, yes.

22 Q. Let's look at the third page from  
23 the end of the document.

24 A. The cover letter?

25 Q. Right. The cover letter with the

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1 product opinion laboratory letterhead. Mr.  
2 Ryan, is your signature on Page 2 of this  
3 letter?

4 A. Is what?

5 Q. Your signature on Page 2 of this  
6 letter, the next page?

7 A. No, but my name is printed. Wait a  
8 minute. I'm sorry. Yes. That's my signature.

9 Q. At the time that you signed this  
10 document with the product opinion laboratory  
11 letterhead on it, Mr. Ryan, you were actually  
12 employed by Philip Morris, weren't you?

13 A. Yes.

14 Q. And you weren't employed at all  
15 by product opinion laboratory at this point in  
16 time. That wasn't until later in your career  
17 were you employed by product opinion  
18 laboratory. Correct?

19 MR. HURWITZ: Objection.

20 A. Yes. I was physically located within the  
21 product opinion laboratory in their offices on  
22 the west end of Richmond, which was the place I  
23 had as my office.

24 Q. Not 1971 you weren't. You didn't  
25 go there until about 1984.

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1 A. From then I just moved from the tower in  
2 the research center to the building next-door.  
3 I'm talking about having an office in a building  
4 seven and a half miles or so from R and D where  
5 the product opinion laboratory did a lot of its  
6 testing.

7 Q. In 1971, Mr. Ryan, you weren't at  
8 the product opinion laboratory yet. You were  
9 still with R and D at --

10 A. I had no office at R and D. There was no  
11 space. Therefore, I was physically stationed at  
12 the product opinion laboratory on the far side  
13 of the City of Richmond.

14 Q. In 1971?

15 A. In 1971. It wasn't until the tower was  
16 built, just before the tower was built, that I  
17 got to be with the rest of the R and D people  
18 and, in the meantime, I stopped at another  
19 building in downtown Richmond before moving on  
20 to a building in the research complex.

21 Q. But you weren't a part of the  
22 product opinion laboratory in 1971. At least  
23 that's what you told me earlier when I asked you  
24 when you first joined product opinion  
25 laboratory. You told me you joined product

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1 opinion laboratory in 1984. Now you're saying  
2 you were with them in 1971?

3 A. We're making a distinction that doesn't  
4 exist here. The product opinion laboratory is a  
5 subgroup of Bill Dunn's little world, and I am  
6 over here in another subgroup of Bill Dunn's  
7 little world and I run some studies which, when  
8 we send them out to the field to consumers, go  
9 out under the product opinion laboratory because  
10 they're the ones who have the consumers, and  
11 when they conduct some testing in-house it comes  
12 out as being something done by Philip Morris  
13 because we have them come to a Philip Morris  
14 facility.

15 Q. But you weren't in 1971, sir,  
16 doing consumer studies. That wasn't until 1984  
17 that you were doing consumer studies?

18 A. At the time we did all kinds of things.  
19 We didn't make distinction of the type you're  
20 describing here. The only -- Believe me, I may  
21 have attached to the behavioral research  
22 laboratory. I'm not sure if we had that name at  
23 that point, but I may have been attached to the  
24 behavioral research laboratory, but I was  
25 physically located in the product opinion

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1 laboratory's offices at the far end of the City  
2 of Richmond.

3 Q. When did you first -- When were  
4 you first physically located at the product  
5 opinion laboratory's offices? What years during  
6 your employment at Philip Morris?

7 A. 1968 when I arrived in Richmond.

8 Q. Until when? Until when?

9 A. Until just before they completed the  
10 building of the tower, the research tower, and I  
11 can't give you a date for that. So bet it  
12 wasn't that long. Several years. If you're  
13 trying to make -- There isn't any distinction  
14 here between working at this building or that  
15 building.

16 Q. We'll let others make that  
17 decision.

18 Let's talk on Page 2 at the top  
19 of the page. As researchers, it says there, and  
20 it's signed by you, we take no formal position  
21 on the issue of smoking or nonsmoking. We are  
22 concerned only with finding what happened as a  
23 result of Cold Turkey.

24 Sitting here today, Mr. Ryan,  
25 would you agree with me that was a false

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1 statement?

2 MR. HURWITZ: Objection.

3 Q. That was a false and misleading  
4 statement to the people that you sent this  
5 letter to?

6 MR. HURWITZ: Objection. You're  
7 asking for a legal conclusion.

8 MR. SHUB: I'm not asking for --

9 Q. You can answer.

10 A. No. We didn't care. It didn't make any  
11 difference to me how it came out.

12 Q. Did the product opinion  
13 laboratory, was that an independent  
14 organization?

15 A. No.

16 Q. It was owned by Philip Morris.  
17 Right?

18 A. Like the room across the hall where you  
19 do the photocopying is owned by this legal firm.

20 Q. Would it be a misrepresentation  
21 for this law firm to say that they have no  
22 interest in the business that's done by the  
23 copying people across the hall? Would that be a  
24 misrepresentation carrying your analogy out?

25 A. Am I going to use their copying machine?

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1 Q. The question was, is it a  
2 misrepresentation for this law firm to operate  
3 out of this conference room and send a letter  
4 out saying they have no interest in the business  
5 of the copying room across the hall?

6 MR. HURWITZ: Objection.

7 A. I'm not quite sure that I'm tracking  
8 your -- your pursuit of my analogy that far, but  
9 the fact is we didn't have any -- an interest  
10 in the results. We couldn't have any. We  
11 couldn't bias our data, could we, and we didn't  
12 want the people to know that they were dealing  
13 with an offshoot of a tobacco company. That I  
14 will give you, because that would have biased  
15 the returns which we got.

16 Q. Sure this letter implies that you  
17 are researchers that have no formal position on  
18 the issue of smoking or nonsmoking, and that --  
19 I'm asking you whether you would agree with  
20 me -- is a deceptive letter because it implies  
21 to the reader that Frank Ryan operates out of  
22 the research department of POL, which implies  
23 that you are an independent researcher when, in  
24 fact, you were not an independent researcher.

25 MR. HURWITZ: Objection.

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1 MR. DOLUISIO: Objection.

2 Q. Were you an independent  
3 researcher, sir?

4 A. Does it sound from what I've said to you  
5 throughout the course of the day as if I was an  
6 extraordinarily dependent person? I was very  
7 independent. If I liked something, I did it.  
8 If I didn't like it I probably wouldn't do it.

9 Q. Sir, were you employed by Philip  
10 Morris?

11 A. Yes.

12 Q. Was Philip Morris' objective to  
13 sell cigarettes?

14 A. And coffee, razor blades.

15 Q. I want you to answer my  
16 questions. I've been very tolerant today of you  
17 answering questions that you wanted to answer,  
18 but for the next few questions, minutes, I just  
19 want you to answer my questions. Was Philip  
20 Morris in the business of selling cigarettes?

21 A. Yes.

22 Q. And part of Philip Morris' job  
23 was to sell as many cigarettes as they could.  
24 Correct? As a general statement is that fair to  
25 say?

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1 A. I'm going to say no to that.

2 Q. Was --

3 A. They could have always have lowered the  
4 price and sold more.

5 Q. Was POL part of Philip Morris?

6 A. It was.

7 Q. Was POL an independent research  
8 agency?

9 A. No.

10 Q. Did Philip Morris have a formal  
11 position on smoking?

12 A. Then?

13 Q. Yes.

14 A. I'm not quite sure how to answer you.

15 Q. Let me rephrase it. In the  
16 context of the way you wrote it here, this  
17 letter, where it says, As researchers we take no  
18 formal position on the issue of smoking or  
19 nonsmoking, would you say that Philip Morris at  
20 this point would have a formal position on the  
21 issue of smoking or nonsmoking?

22 MR. DOLUISIO: Objection.

23 A. They might. I didn't know.

24 Q. Sir, does this letter leave the  
25 impression that the POL lab generally and Frank

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1 Ryan specifically was a research agency and a  
2 research scientist specifically not affiliated  
3 with Philip Morris?

4 A. I really don't know how to answer that.  
5 Because --

6 Q. Try to answer it.

7 A. All I was trying to do was say, Here's a  
8 questionnaire. Fill it out and send it back. I  
9 don't care whether you answer it this way or  
10 that way. We're never going to tell anybody how  
11 you answered it.

12 Q. Sir, I understand your intent,  
13 but I'm going to have the court reporter read  
14 back my question, and give me the answer. I  
15 didn't --

16 MR. HURWITZ: This has been asked  
17 and answered.

18 MR. SHUB: No, it hasn't. It  
19 hasn't been answered.

20 (The last question is read back  
21 by the reporter.)

22 MR. HURWITZ: Asked and answered,  
23 but you can answer it.

24 Q. If you're able to come up with an  
25 answer you can answer it.

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1 A. Well, my answer is that I didn't take any  
2 formal position on the issue of smoking or  
3 nonsmoking at the time. I was only concerned  
4 with what happened. It would have made no  
5 difference to me if everyone in town had quit  
6 and quit successfully and all of them spent  
7 their time leaping in the air. It didn't make  
8 any difference to me.

9 Q. That's not my question.

10 A. If your question is did I want to tell  
11 the people that I was asking to send the data  
12 back, this is the tobacco company asking you  
13 this question, the answer is no. I didn't want  
14 to tell them that.

15 Q. This is why you operated under  
16 the POL's name, not Philip Morris', right?

17 A. Well, yes, but we would have done that  
18 anyhow under any circumstance because they were  
19 the one that had the ability to make and send  
20 out and get back zillions of questionnaires.

21 Q. Who's "they"? They're just  
22 another department of Philip Morris?

23 A. Yes.

24 Q. Just like -- Just like the copy  
25 room here is a department of this law firm.

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1 MR. HURWITZ: Objection.

2 Q. Therefore, sir, if the copy room  
3 of this law firm, which is a part of this law  
4 firm, sent out a letter and solicited copies,  
5 solicited copying business under the name Jones  
6 Copying Service, would that be misleading?

7 MR. HURWITZ: Objection.

8 Q. When, in fact, they were really  
9 just a wing of Arnold and Porter? Answer me  
10 that question.

11 MR. HURWITZ: I'm going to object  
12 to this whole line of questioning.

13 MR. SHUB: That's okay.

14 A. Let me --

15 MR. SHUB: It's not at all  
16 irrelevant.

17 MR. HURWITZ: It's 100 percent  
18 irrelevant.

19 A. Let me answer that it was important to us  
20 not to bias our data one way or another, and in  
21 response to your question, POL did do research  
22 for some other firms on occasion.

23 Q. So your testimony is it was  
24 acceptable to send this letter out because, in  
25 fact, POL was an independent agency?

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1 A. No.

2 MR. DOLUISIO: Objection.

3 A. I'm not going to make that statement at  
4 all.

5 MR. SHUB: I want to take a  
6 break.

7 MR. HURWITZ: It's five after  
8 five. We are stopping the deposition now. It's  
9 the end of the day. We've agreed to allow the  
10 plaintiffs in Frosina to have another day  
11 sometime later in October and, as we explained  
12 to counsel, the deposition was supposed to end  
13 at five.

14 MR. SHUB: We can do that.

15 MR. HURWITZ: Thank you very  
16 much.

17 MS. BRACHTL: Wait. Wait.

18 MR. SHUB: We do want to state  
19 for the record -- first of all, we want to  
20 state -- thank the witness for his time; and, B,  
21 we want to state for the record that the  
22 deposition that Miss Bracht1 will continue will  
23 also be on behalf of the Arch plaintiffs as well  
24 as the Frosina plaintiffs. The Arch plaintiffs  
25 have not finished their testimony search today

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1 of Mr. Ryan and, therefore, we're going to  
2 continue our deposition, which I believe that --  
3 I can't say for sure -- will be conducted by  
4 Mrs. Bracht1 on behalf of Arch or Barnes and  
5 Frosina.

6 MR. HURWITZ: I'll state for the  
7 record, I am not positive what the ground rules  
8 are in the Arch case in terms of days and I  
9 can't say, yes, that's appropriate.

10 MR. SHUB: Pine.

11 MR. HURWITZ: We'll discuss it  
12 later.

13 MR. SHUB: Off the record.

14 THE VIDEOGRAPHER: The screen  
15 says 5:08:56. We're off the record.

16  
17 (Deposition concluded at 5:10  
18 p.m.)  
19  
20  
21  
22  
23  
24  
25

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JURAT

I, FRANCIS J. RYAN, do hereby  
certify that I have read the foregoing  
transcript of my testimony taken on September  
18, 1997, and have signed it subject to the  
following changes:

<u>PAGE</u>	<u>LINE</u>	<u>CORRECTION</u>
-------------	-------------	-------------------

DATE:

Sworn and subscribed to before me on this  
day of

NOTARY PUBLIC

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C E R T I F I C A T E

I, PATRICIA M. MULLIGAN, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, do hereby certify that prior to the commencement of the examination, the witness was sworn by me to testify as to the truth, the whole truth, and nothing but the truth.

I do further certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place, and on the date hereinbefore set forth.

I do further certify that I am neither of counsel nor attorney for any party in this action and that I am not interested in the event nor outcome of this litigation.

  
\_\_\_\_\_  
Notary Public of the State of New Jersey  
Certificate No. XI00780

Dated: 9/23/97

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